Visa Diplomacy vs. Visa Security
James Hernandez

ABSTRACT
This article presents an analysis of the current policy governing the visa issuing function (currently divided between the Department of Homeland Security and the Department of State) and proposes a policy under which the Department of Homeland Security (DHS) assumes operational and tactical level control of the visa issuing function from the Department of State (DOS). The current system results in a duplication of effort, unclear responsibilities, an increased need for communication and collaboration between government departments, and a loss of mission focus. In an effort to increase security, streamline the immigration process, and address the above issues, this article recommends that the visa issuing function should be the exclusive responsibility of, and performed by, DHS.

INTRODUCTION
Let’s say you live with your family in a nice home, but in a bad neighborhood. You work outside of the home, and you need someone to let good people in and to keep bad people out. Two people show up to interview for the position. The first candidate’s name is Diplomacy. The second is Security. Diplomacy believes strongly in leveraging your neighbors to help with your security using various sticks and carrots and promoting your family’s values throughout the neighborhood. Although Diplomacy values the family’s security, he sometimes places security below other priorities such as the promotion of neighborhood rights, strengthening and spreading the way your family is managed throughout the neighborhood, and ensuring the success of your economic interests. By manipulating all of these levers, Diplomacy seeks to deny bad people a safe haven in which to operate within your neighborhood. Diplomacy is willing to screen people who wish to visit you, and to check with Security to ensure that the proposed visitor is not dangerous. This is all desirable to your family’s well being, but will it actually keep bad people out of your house?

Security stands at the gate and checks every individual before they are allowed inside. These checks utilize law enforcement and terrorist databases, a brief personal interview by a trained law enforcement officer, and various searches. Security’s focus is simple and narrow: keep bad people from entering your home.

What if you could allow Diplomacy to continue doing its good works abroad, but also push Security out with him? Allow Security to do the vetting out in the neighborhood before people even arrive at your door, and then vet them again when they do. This would allow Diplomacy to narrow the focus of his mission, and result in both candidates being more effective in keeping your family safe.

BACKGROUND
Prior to 9/11, the Department of State (DOS) was almost exclusively responsible for the disciplines of diplomacy and security where visas were concerned. However, the security aspect of the visa function during this time was more focused on keeping out visitors likely to overstay their visas and become illegal immigrants. The procedures in place did not have an adequate focus on identifying individuals who posed a security threat. However, this was not always the case. After World War II, the visa function was placed under the DOS Administrator of the Bureau of Security and Consular Affairs. As the name suggests, this bureau comprised both security and consular functions. The mission of the security function was to identify potential espionage agents and communist party members applying for visas. In the 1970s and 1980s, the security function was formally separated from visa issuance in an effort to facilitate travel to the United States.
Streamlining an increased workflow took priority over the scrutiny of visa applications.¹

The 1993 World Trade Center attacks called attention to vulnerabilities in the pre-9/11 visa process; however, the priority of the State Department, where visas were concerned, remained the facilitation of travel. This led to the creation of a streamlined application process for countries of particular geographic or economic interest to the United States.² During the period leading up to 9/11 personal interviews for certain types of visas were often waived. US ambassadors were concerned about long visa lines and the strict enforcement of visa denials. These concerns put political pressures on visa officers within the DOS to manage the visa function more as a service than as a security screen.³ This prioritization of diplomacy over security in the issuing of visas led to significant vulnerabilities in the visa process and contributed to the creation of the now infamous “Visa Express” in Saudi Arabia that many of the 9/11 hijackers exploited. In the Visa Express of Saudi Arabia, civilian travel agents would pre-screen visa applicants and submit petitions on their behalf.⁴

Clearly, a better balance between diplomacy and security in the visa issuing process was needed. When too much emphasis is placed on diplomacy, security is decreased at the operational and tactical levels.

In the aftermath of 9/11, the US government has worked to improve the level of security for the visa issuing process as conducted by the DOS prior to 9/11. A number of legislative and organizational activities, including the creation of the Department of Homeland Security (DHS), occurred after the attacks of 9/11 to ensure that government failures leading up to 9/11 were not repeated. All immigration law is codified in the Immigration and Nationality Act (INA) of the United States (as amended). Title II of the INA regulates visa procedures as they pertain to admissions criteria, required entry documents, and the selection system.

**POST-9/11 REFORMS**

New legislation since 9/11 includes the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT) Act, the Enhanced Border Security and Visa Entry Reform Act (EBSVERA), the Homeland Security Act of 2002, and the Intelligence Reform and Terrorist Prevention Act of 2004. The USA PATRIOT Act authorized additional funding for a foreign student tracking system, and advanced the deadline for Visa Waiver Program (VWP) participants to have passengers submit machine-readable passports. EBSVERA required DOS consular officers to send electronic versions of visa files to (then INS) inspectors at ports of entry in the United States. EBSVERA also made it more difficult for individuals from state sponsors of terrorism to come to the United States, and increased the security requirements on travel documents.

The Homeland Security Act of 2002 established DHS within the federal government, and also authorized DHS to participate in visa related functions including deploying employees to consular posts abroad, developing homeland security training programs for consular officers, and developing performance standards for consular employees. The Intelligence Reform and Terrorist Prevention Act of 2004 mandated and expanded the visa interview requirement to all persons between the ages of fourteen and seventy-nine, and made the revocation of a visa a deportable offense.⁵

The Homeland Security Act also dismantled the Immigration and Naturalization Service into three separate agencies. These agencies are United States Citizenship and Immigration Services (USCIS), Customs and Border Protection (CBP), and Immigration and Customs Enforcement (ICE). CIS conducts the adjudication function, CBP conducts inspections and border enforcement, and ICE conducts investigations. All of these agencies fall under DHS. DOS remained untouched by the reorganization even though its policies were largely responsible for these terrorists receiving visas. The Homeland Security Act gave DHS exclusive authority to issue
regulations and administer the visa program, but the offices that perform these services remained in DOS. This resulted in DHS having to regulate another government department to ensure there are adequate levels of security in an immigration function that belongs in DHS.

Before and since the creation of DHS, there has been debate about the new department’s role in the visa issuing process. The nineteen terrorists who hijacked the planes on 9/11 were aliens who entered the United States on temporary visas. As many as fifteen of the nineteen hijackers were potentially vulnerable to detection by border authorities currently under DHS; more closely analyzing the terrorists’ documents and travel patterns could have allowed authorities to interdict as many as fifteen of the hijackers.

The new laws enacted since 9/11 do provide an adequate framework to correct the problems in the visa issuing process that allowed all nineteen of the 9/11 terrorist hijackers to enter the United States with valid visas. These laws could be leveraged to streamline the entire immigration process by consolidating the visa issuing function within DHS.

**WHAT REALLY CHANGED AFTER 9/11?**

September 11, 2001 brought about sweeping changes in visa security and brought the visa issuing process to the forefront of public policy and debate. Some of the most sweeping changes to the government following 9/11 were contained in the Homeland Security Act of 2002 (henceforth the Act). The Act resulted in the immigration components of DHS having greater responsibilities abroad than the former INS. DHS not only had to bring together its legacy agencies into a new department, but it also had to establish new business practices for functions with which its legacy agencies had no experience. Visa security within DOS is one of these functions. Secretary Ridge established an office to oversee DHS visa activities under the memorandum of agreement with DOS.

That office pursued a number of measures to immediately increase security to the visa process. This was largely accomplished by database screening of visa applicants. DHS officers have full access to a variety of law enforcement databases. Table 1 identifies some of the databases that are used to enhance visa and immigration security. There are multiple systems spread across several government departments, including the Department of Justice (DOJ) and the CIA. This screening process also requires additional communication and collaboration between government agencies.

**Table 1. Immigration Related Databases**

<table>
<thead>
<tr>
<th>Database</th>
<th>Department</th>
</tr>
</thead>
<tbody>
<tr>
<td>Integrated Automated Fingerprint Identification System (IAFIS)</td>
<td>DOJ</td>
</tr>
<tr>
<td>National Criminal Information Center (NCIC)</td>
<td>DOJ</td>
</tr>
<tr>
<td>Treasury Enforcement Computer System (TECS)</td>
<td>DHS</td>
</tr>
<tr>
<td>Interagency Border Inspections System (IBIS)</td>
<td>DHS</td>
</tr>
<tr>
<td>National Security Entry Exit Registration System (NSEERS)</td>
<td>DHS</td>
</tr>
<tr>
<td>US-VEIST</td>
<td>DHS</td>
</tr>
<tr>
<td>Student Exchange and Visitor Information System (SEVIS)</td>
<td>DHS</td>
</tr>
<tr>
<td>Automated Biometric Identification System (IDENT)</td>
<td>DHS</td>
</tr>
<tr>
<td>Advanced Passenger Information System (APIS)</td>
<td>DHS</td>
</tr>
<tr>
<td>Consular Consolidated Database (CCD)</td>
<td>DOS</td>
</tr>
<tr>
<td>Consular Lookout and Support System (CLASS)</td>
<td>DOS</td>
</tr>
<tr>
<td>Personal Identification Secure Comparison and Evaluation System(PISCES)</td>
<td>CIA</td>
</tr>
</tbody>
</table>
The last form of security scrutiny that a visa applicant must undergo also resides with DHS. Customs and Border Protection (CBP) inspects aliens who seek to enter the United States. This inspection is performed at a US port of entry. Primary inspection consists of a brief interview with a CBP inspector, a cursory check of the traveler’s documents, and a query of various law enforcement databases. Primary inspections are quick (usually lasting no longer than a minute); however, if the inspector is suspicious that the traveler may be inadmissible under the Immigration and Nationality Act (INA) or in violation of other US laws, the traveler is referred to a secondary inspection. Individuals sent to secondary inspections are questioned extensively, travel documents are further examined, and additional databases are queried. This system is intended to compliment the security involved in the visa application process performed by DOS. Figure 1 demonstrates a simplistic immigration process, and the general responsibilities of each department. An immigrant would start at the bottom of the pyramid and work his or her way up.

Figure 1. The Immigration Process

Since 9/11, DOS has implemented a number of policies to improve the level of security of its visa services. These policies include the use of new technologies that use biometric identification data (to deter fraud and the use of multiple identities) and the expansion of interagency partnerships and agreements with other governments to build data links for sharing real time information. Due to the diplomatic mission of DOS, the department must balance security with facilitating legitimate travel. DOS must also consider the strategic implications of international immigration such as identifying
labor, students, and other potential citizens who would prove advantageous to the United States. Consular officers around the world process more than seven million non-immigrant visa applications, and nearly 700,000 immigrant visa applications, each year. Foreign visitors seeking to enter the United States meet with US consular officers for visa interviews. The high volume of applicants results in short interview times for face-to-face meetings. DOS must rely on other means outside of the personal interview to screen potentially dangerous applicants. These measures include collecting facial recognition and biometric data, expanding interagency partnerships, developing agreements with other governments to share information, and building real-time data links. Diplomacy has an important role in the operations of our nation, but even this must be augmented with an appropriate measure of security. The above security functions are currently performed by DOS and subsequently balanced with their own diplomatic mission.

Historical shifts in DOS priorities – from security to diplomacy in the visa process – created significant vulnerabilities that were subsequently exploited leading up to the 9/11 attacks. Although diplomacy creates a strategic-level layer of national security, it neglects the necessary security at the operational and tactical levels in the visa process. To correct this, the United States instituted a number of legislative changes. This legislation resulted in greater scrutiny of the visa function and led to a massive reorganization of government agencies to create the Department of Homeland Security. However, the Department of State remained largely untouched by this legislation. Despite several efforts to improve the visa process since September 11, 2001, it is still cumbersome, expensive, and inconvenient for many visitors. Even worse, inefficiencies in the visa process and its management detract from efforts to screen out terrorists and criminals who seek to exploit visas...

WHAT IS THE STATUS QUO?

The US immigration system mostly relies on the cooperation and collaboration of two departments when it comes to the visa process. The Department of Justice (DOJ) Executive Office for Immigration Review (EOIR) also plays a role in the visa process through immigration review. This is limited to judicial issues on immigration decisions made by DHS or appeals by immigrants and foreign national criminal convicts. This role is not as operationally problematic in that it is more of a third party check and balance.

Operationally, DHS is responsible for implementing policies and security training for DOS in the visa process, as mandated by the Homeland Security Act of 2002. DOS handles the actual operational and tactical component of the process through the bureau of Consular Affairs. There is also a “Memorandum of Understanding between the Secretaries of State and Homeland Security Concerning Implementation of Section 428 of the Homeland Security Act of 2002.” Strong proponents of security claim that the MOU gives too much power to DOS in the visa process, and they further claim this was not the intention of the legislation that gave DHS authority over the security of the process. According to Carafano, this division of labor is far from ideal:

Despite several efforts to improve the visa process since September 11, 2001, it is still cumbersome, expensive, and inconvenient for many visitors. Even worse, inefficiencies in the visa process and its management detract from efforts to screen out terrorists and criminals who seek to exploit visas...

There are two predominant opinions regarding who should control the visa function: those who argue it should remain as it is, and those who argue DHS should play a larger role. Those who support DHS controlling the entire process point to past DOS failures in visa security and cite the continuity that would be gained by having the
entire immigration process being controlled by one department. DOS consulates have been described as business-like in the issuing of visas, rather than being concerned with security. This is based on an institutional concern about visa numbers and efficiency. After September 11, 2001, the DOS came under scrutiny for issuing visas to many of the hijackers. The DOS Bureau of Consular Affairs has a critical responsibility to check the backgrounds and confirm identities of persons seeking visas.\textsuperscript{22} DOS critics also argue that there are no easy means of redressing subjective decisions made at the consular level regarding who should be granted visas.\textsuperscript{23}

Another area of concern is the current system’s need for information sharing and coordination between government departments. If the law enforcement or intelligence communities identify a person of interest who should not be allowed to enter the United States, they must communicate that to DOS to ensure that individual is not issued a visa. Similarly, if DOS identifies someone who has been denied a visa for terrorist or criminal reasons, then DOS must in turn communicate this back to the appropriate immigration, law enforcement, and intelligence entities to ensure that person is not admitted into the United States.\textsuperscript{24} Consolidating the visa issuing function into DHS would eliminate the need for the timely sharing of this information and close a critical gap in security. This would also create a seamless immigration process from start to finish by consolidating the entire process from the visa application to the adjustment of immigration status under one government department.

Opponents to moving the visa function under DHS claim that staffing 250 worldwide posts would stretch DHS too thin, and decisions regarding visas are best left up to experts holding country specific knowledge.\textsuperscript{25} DOS also makes a case regarding its own personnel issues. DOS uses junior probationary officers to conduct visa interviews. This has been a traditional first tour assignment for Foreign Service Officers (FSO).\textsuperscript{26} Losing the visa function would free junior FSO to conduct work focused on diplomacy. Gaining the visa issuing function would require DHS to create an entirely new office.

**THE ROLE OF DHS**

DHS is responsible for the discipline of security in the visa issuing process. DHS is a security centric organization as is evident in its mission statement:

*We will lead the unified national effort to secure America. We will prevent and deter terrorist attacks and protect against and respond to threats and hazards to the Nation. We will secure our national borders while welcoming lawful immigrants, visitors, and trade [emphasis added].*\textsuperscript{27}

One of the strategic goals of DHS is to protect the United States from dangerous people. In contrast, protecting against dangerous people is not mentioned, specifically, in any of the seven strategic goals of the DOS.\textsuperscript{28} Like DOS, DHS must also facilitate legitimate travel and trade into and out of the United States. DHS seeks to improve security by reducing the likelihood that terrorists can enter the United States; to do this, DHS strives to implement a layered approach to this process. Whenever possible, DHS expands the zone of security, managing risks and interdicting threats before they arrive in the United States.\textsuperscript{29} This is accomplished with the cooperation of DOS abroad on a myriad of programs, one of which is visa security.

This relates to another strategic goal of DHS: strengthening the screening of visa-holding travelers and workers. DHS looks to improve the security and mobility of travelers and increase focus on high-risk individuals through improved use of data, screening, fraud-resistant credentials, and biometric tools. This will reduce the risk of potential terrorism or other unlawful activities from threatening the United States.\textsuperscript{30} A review of the DHS mission and strategic goals reveals a focus on security and defending against terrorism. These goals become problematic when DHS creates policies, objectives, and goals that must be implemented and executed by an entirely different department. DHS has control over the strategic planning
in visa security with no operational or tactical control over the process.

**THE ROLE OF DOS**

DOS is responsible for issuing visas to both immigrants and nonimmigrants. This is the first step for someone wishing to legitimately enter the United States from abroad; however, in order to get a visa one would only need to convince the DOS consular officer issuing the visa that one’s story is legitimate. Consular officers, like CIS adjudicators, are non-law enforcement personnel, and they are on a tight time schedule. Most visa issuing processes, including the interview and database checks, are done within six minutes. As mentioned earlier, this function is largely staffed by first tour junior FSO in order for them to gain experience in local languages, foreign political structures, social institutions, and working with a local national staff. This low priority in personnel staffing demonstrates the lack of emphasis DOS places on the importance of these duties and creates the opportunity for fraud. A visa allows a person to travel to the United States and present himself to a CBP officer at a port of entry for permission to enter the country. Only a CBP officer has the authority to allow a person to enter the country. CBP officers are law enforcement officers; DOS personnel issuing visas are not law enforcement.

Reviewing the mission statement and various strategies of DOS shows a clear focus on diplomacy. The DOS mission is to:

> Advance freedom for the benefit of the American people and the international community by helping to build and sustain a more democratic, secure, and prosperous world composed of well-governed states that respond to the needs of their people, reduce widespread poverty, and act responsibly within the international system.

Although the DOS mission statement is clearly diplomatically focused, many of its strategies aim to improve security, albeit in a non-law enforcement manner. The DOS strategy for combating terrorism stresses the advancement of democracy, the rule of law, and a global environment described as inhospitable to violent extremism. According to DOS, diplomacy and foreign assistance supports peace and creates the environment for longer-term developmental solutions to prevent terrorism from developing and taking hold. DOS recognizes the importance of sharing information within and between governments, improving passport security, and implementing effective visa adjudication processes that deny access to individuals who pose risks to US national security.

In contrast to the more law enforcement centric approach to security employed by DHS, DOS seeks to counter terrorism through sound policy, effective assistance, and astute public diplomacy. This policy works well to affect security at the strategic level, but it neglects the security issues at the operational and tactical levels of the visa issuing process. Moving the visa issuing function under DHS would not have a significant impact on any of the DOS strategic goals. All of its efforts spearheaded by diplomacy would largely remain the same.

**SHARING RESPONSIBILITIES: THE MOU**

The Homeland Security Act states that DHS is responsible for formulating regulations on visa issuances and may assign staff to consular posts abroad to advise, review, and conduct investigations. DOS Consular Affairs continues to be responsible for issuing visas. The Act requires DHS and DOS to reach an understanding on how the details of this division of responsibilities would be implemented. In 2003, Secretary of State Colin Powell and Secretary of Homeland Security Thomas Ridge signed a memorandum of understanding (MOU). The MOU describes each department’s responsibilities in the visa process.

In stating how these responsibilities are being implemented between the two departments, the MOU has raised a few concerns. According to the MOU, DHS will establish visa policy, review implementation of that policy, and provide additional direction as provided by the MOU, while respecting the prerogatives of DOS to lead and manage the consular corps and its functions, to manage the visa process, and to execute the foreign policy of the United States. DHS will rely upon DOS in foreign
policy matters, and DOS will respect the expertise of DHS concerning American security. The MOU states that DOS may propose and issue visa regulations subject to DHS consultation and final approval. It also allows DHS to assign personnel to diplomatic posts, but it specifies that DOS will determine which personnel, how many, and the scope of their functions. This limits the ability of DHS to conduct thorough and efficient oversight of the security of the visa issuing function. At a hearing in September 2003 that focused on the MOU between DOS and DHS, Assistant Secretary of State for Consular Affairs Maura Harty described responsibilities that remain with the DOS:

The Secretary of State will have responsibility over certain visa decisions, including decisions of a foreign policy nature.... He will also be responsible for establishing visa validity periods and fees based on reciprocity. In the case of visa validity periods, however, he will consult with Homeland Security before lengthening them, and Homeland Security will have authority to determine that certain persons or classes of persons cannot benefit from the maximum validity period for security reasons.

The MOU limits the authority of DHS in the operational and tactical aspect of issuing visas. It creates a seam in the immigration process that can be exploited. It allows DHS to create policy, but relies on DOS to implement these policies as they are intended. As stated previously, regarding post-WWII and pre-9/11 DOS, the department has historically shifted its emphasis on visa security with shifting diplomatic pressures. This is the result of DOS being focused on diplomacy as its core mission. The core mission of DHS is centered on security.

The immigration process is divided between DHS and DOS. This creates a seam that requires additional cross-agency communication and collaboration to ensure security. The MOU between DHS and DOS negates many of the security gains made by the legislative changes after 9/11. Contrary to the intent of the legislation, DOS retained too much control over the process, which resulted in marginal changes from the system that was in place prior to 9/11. The MOU has sparked debate over which department is better suited to handle the visa issuing function. Leaving the visa issuing function under DOS control retains the country specific expertise of DOS and allows it to exercise diplomacy through the allocation of visas.

Moving the visa issuing function into DHS would eliminate both the need for information sharing and the seam in the US immigration process. It would also ensure that the right balance of security and diplomacy resides in policies regulating the issuing of visas. This is due to the mission of DHS being security-centric versus the diplomacy-centric mission of DOS that led to the Saudi Visa Factory.

A NEW STRATEGY

Arguably, diplomacy and security are interconnected and mutually supporting. Diplomacy seeks to strengthen the image and relationships of the United States internationally. Diplomacy is often the alternative to harder forms of influence, such as combat operations. Effective diplomacy can gain the United States much needed allies in the war on terror, thereby increasing security. In the operational and tactical levels of the visa process, however, security is more beneficial than diplomacy to US interests.

Because of this, DHS should conduct all operational and tactical functions related to the issuing of visas, thereby ensuring security at the individual applicant level. The operational and tactical levels of the visa issuing function refer to the policies and procedures governing the screening of applicants as well as the physical issuing of the visa. The DHS security mission is more applicable to the scrutinization of visa applicants at the tactical and operational levels. This is due to the law enforcement culture of DHS, and its operational reach, in terms of communication and collaboration, with the other agencies involved in border and transportation security. These agencies include the Transportation Security Administration (TSA), ICE, CBP, and CIS. Under the current system DOS must communicate and collaborate with agencies
outside of its department in order to perform these functions effectively.

Figure 2 illustrates the various agencies in the departments that must communicate regarding immigration issues. As illustrated, it is apparent how much easier information sharing would be if the visa issuing function currently handled by DOS Consular Affairs fell in under DHS.

**Figure 1. Departmental Overlap in the Visa Issuance Process**

DOS should retain diplomatic responsibility in the allocation of visas, thereby promoting security at the strategic level. This involves determining which countries would be allocated how many and what types of visas. DOS would be able to utilize the allocation of visas to promote diplomacy at the strategic level. It would then be the responsibility of DHS to determine which individuals from these countries would be granted visas based on security concerns at the operational and tactical levels. This would help provide the process with the necessary balance between diplomacy and security.

The current immigration process is divided between three separate government departments: DHS, DOS, and DOJ. The role of the DOJ is largely one of oversight and would not be affected by this proposed strategy. Nevertheless, it is necessary to identify all of the stakeholders in this process and how they will be affected by a change in strategy. It is also necessary to mitigate any potential challenges to implementing this strategy. In order for this strategy to be effective, both DHS and DOS must be convinced that this will allow them to better accomplish their respective missions, and Congress must recognize how this strategy will significantly improve the level of security in the visa issuing process.

**Mutual Benefits**
The mutual benefits to this strategy lie in allowing DHS and DOS to focus exclusively on their respective core departmental missions. DHS will be able to concentrate on securing the visa issuing function, and DOS will be able to focus exclusively on diplomacy.

Under the current memorandum of
understanding between DOS and DHS, DOS is responsible for the operational and tactical aspects of the visa issuing function and DHS plays the role of security policy advisor. This method of operating forces DOS to shift its attention to one of a security function and away from its core mission of international diplomacy. Moving the operational level of the visa issuing function to DHS would allow DOS to focus its resources and attention on diplomacy.

DHS and DOS should seek to learn to "optimize." Optimizing is the process of recognizing and actualizing benefits to the larger system as a whole. In this case, the "whole" is enhancing the security posture of the United States with respect to the visa issuing system. DHS and DOS could both achieve their own goals and mission better over the long term by pooling capabilities and optimizing the benefits of working together to implement this strategy. Optimizing will strengthen the individual disciplines of diplomacy and security. Diplomacy plays an important role in visa security at the strategic level. DOS should retain the ability to dictate the quantity of visas by type that should be issued to what nations. This decision is largely a diplomatic decision based on US interests overseas. At the operational and tactical levels, DHS would support and undertake the operational aspects of the diplomatic policy decisions by determining which individuals should be granted or denied visas based on the findings of a security assessment.

A SEAMLESS PROCESS
The implementation of a new strategy will consolidate the immigration process, making it organizationally seamless and reducing the need for operational level communication and collaboration. Under the current system, the DOS grants visas to immigrant and nonimmigrant visa holders coming to the United States; these individuals then present themselves and their visas to DHS for admission. For nonimmigrant visa holders, the entry and exit process will be their only contact with DHS. If DHS personnel making a determination for admission of an applicant want to obtain additional information, they must obtain that information from DOS. For immigrant visa holders, a long-term relationship with DHS is necessary in order to obtain immigration benefits, such as lawful status and employment authorization. DHS must obtain records from DOS regarding the immigrant in order to effectively adjudicate his status. This requires information sharing and collaboration between two different government departments, including proprietary database access. Consolidating the visa issuing function with the admission and adjudication functions of DHS could create a seamless process for the visitor or immigrant and could reduce the need for systems and policies governing information sharing and collaboration between separate government departments.

DOS ROADBLOCKS
This strategy presents unique organizational challenges within DOS. The Department of State currently uses the visa review as an entry-level diplomatic position from which to grow and develop the future leaders of its department. Moving this responsibility into DHS would require DOS to find another avenue through which to develop their junior diplomats.

Issuing visas also generates fees that are currently kept by DOS; however, DOS would not require these funds to facilitate the visa process, as that would be moved to DHS. DOS Diplomatic Security Service (DSS) is currently responsible for investigating visa and passport fraud. DSS shares the responsibility of investigating visa fraud with DHS Immigration and Customs Enforcement (ICE) and the Department of Labor’s (DOL) Office of the Inspector General (OIG). The mission of DSS is to protect DOS personnel and missions and uphold the integrity of US visa and passport travel documents. ICE could easily become the lead agency in visa fraud investigations as ICE is the largest investigative arm of DHS and already has attachés stationed at many US embassies abroad. This would allow DSS to focus more on the mission of protection, and it would prevent significant duplications of effort between the two agencies. This would require a significant transition period in order to
ensure that the new office within DHS would be fully trained and prepared to assume these responsibilities. The institutional knowledge of DOS regarding the issuing of visas would need to be fully exploited before any formal change in responsibility could occur. This transition period would, however, be temporary, and it would be offset by the increase in security and continuity in both the visa and immigration processes.

**DHS CHANGES**

DHS would also need to undergo significant changes to implement this strategy. These changes could be potentially greater than the changes required by DOS. The two departments would have to work together to implement a training program to teach DHS employees the skill sets required along with the specifics of the duty. The largest change would be expanding an office within an existing DHS agency. ICE is the principle investigative arm of DHS. ICE already has a significant footprint in Department of State embassies and investigates crimes involving visa fraud. ICE is currently responsible for the Visa Security Program (VSP). ICE assigns special agents to diplomatic posts worldwide to conduct visa security activities, such as examining visa applications in depth, initiating investigations, coordinating with other law enforcement entities, and providing training and advice to DOS personnel. This program could easily be expanded to include agents whose function would be to issue visas. Analysis of the ICE Strategic Plan for 2010–2014 reveals a focus on visa security and preventing dangerous individuals from entering the United States. The specificity of mission focus outlined in this plan, as it pertains to visa security, lays a strong foundation for ICE assuming complete responsibility for the visa issuing process. The fact that ICE is already seeking to expand the VSP could also make a transition of this responsibility more viable.

**STAKEHOLDERS**

DHS and DOS are not the only stakeholders in the visa issuing function. Others who have an interest in the way visas are issued include the US Congress and special interest groups (which include civil liberties unions), college presidents across the United States, migrants, visitors, and foreign business persons. Congress is responsible for oversight and funding of departmental programs. There are multiple congressional committees responsible for national security oversight. These subcommittees must be fully informed and engaged in any potential changes within the visa issuing system. Special interest groups such as civil liberties unions must be engaged to ensure they understand this strategy will not add new security requirements but will instead streamline existing security procedures. College presidents have a huge stake in international students receiving visas to study in the United States. They should participate in working groups, to ensure their concerns are addressed and to better understand how improved security procedures in the visa process could make their campuses safer. The private sector will also benefit from improved
security procedures in the visa process by receiving guest workers that have undergone a more efficient vetting process. This would be the result of all DHS indices concerning immigration and security being referenced by DHS personnel versus having to rely on interagency collaboration.

A significant outreach to each of these stakeholders would be necessary in order to create a “mega community” that could work towards achieving this goal. A mega community is defined as a collaborative socioeconomic environment in which business, government, and civil society interact according to their common interests, while maintaining their unique priorities.50

All of the various stakeholders must be reached – in an effort to mitigate potential roadblocks to implementing this strategy – and invited to provide input in the creation of the plan. Informing and involving the various stakeholders early on in the process can accomplish this. Congressional approval is necessary to attain required funding and legislation for this to be effective. Civil liberty groups and other special interest groups must be assured that this will enhance security merely by streamlining a process that is already in place, and not by creating new requirements and additional scrutiny. Visitors and foreign businesspersons must also be shown that this will make the process both more efficient and more secure.

CONCLUSION

Consolidating the visa issuing process under the Department of Homeland Security will transform this function from a system that potentially creates a security vulnerability and communication seam to a more streamlined and efficient system. This strategy seeks to raise the level of security in the visa issuing process and efficiency in the overall immigration process. The strategy aims to reduce vulnerabilities to fraud, and the likelihood of dangerous persons entering the United States. Lastly, the strategy provides an opportunity for DOS to focus exclusively on diplomacy. Table 2 shows an Eliminate-Reduce-Raise-Create Grid for this strategy that can be easily understood by policy makers at all levels.51

Table 1. ER2C Grid

<table>
<thead>
<tr>
<th>ELIMINATE</th>
<th>RAISE</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Diplomacy at the operational level</td>
<td>• Level of security in the visa process</td>
</tr>
<tr>
<td>• Need for operational level of collaboration and communication</td>
<td>• Efficiency of the immigration process</td>
</tr>
<tr>
<td>Reduce</td>
<td>Create</td>
</tr>
<tr>
<td>• Visa fraud vulnerabilities</td>
<td>• Seamless immigration process from start to finish</td>
</tr>
<tr>
<td>• Likelihood of dangerous persons entering the U.S.</td>
<td>• Consolidated immigration process</td>
</tr>
<tr>
<td></td>
<td>• Opportunity for DOS to focus exclusively on diplomacy</td>
</tr>
</tbody>
</table>
The visa system in the United States is currently fractured between the Department of State and the Department of Homeland Security. This creates extra requirements in terms of interdepartmental collaboration and communication as well as duplications of effort in the security and diplomacy arena. Creating a seamless process for foreign nationals to enter the United States will increase both efficiency and security that will benefit national security as well as international commerce. Refining the visa process will require significant reorganizations within DHS and DOS, but it will allow these departments to focus exclusively on their respective missions. Nonetheless, for this strategy to be possible, all stakeholders must be engaged to fully understand the benefits of such a strategy. This strategy could also solve the current problems of information sharing, interdepartmental collaboration, and competing missions and resources. A seamless process emphasizing a more efficient and secure visa issuance system may result in a more secure United States.

ABOUT THE AUTHOR

James Hernandez is a supervisory special agent with US Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI). He has conducted multiple assignments within HSI to include duties along the Southwest border, and HSI Headquarters. James currently serves as the dual-hat attaché for DHS and the assistant attaché for ICE at the US Embassy in Sana’a, Yemen. James also serves as an infantry officer in the Army National Guard, and has served in the military since 1993. He holds a bachelor degree from Auburn University, a master degree from Troy University, and a Master of Arts Degree in Security Studies at the Naval Postgraduate School Center for Homeland Defense and Security.

---

7. Wasem, Visa Policy.
10. Wasem, Visa Policy.
12. Wasem, Visa Policy.


16 Ibid.

17 Wasem, *Visa Policy*.


20 Wasem, *Visa Policy*.


22 Wasem, *Visa Policy*.

23 Carafano, “Strengthening Visa Management.”


25 Wasem, *Visa Policy*.


27 DHS, *One Team, One Mission*.


29 DHS, *One Team, One Mission*.

30 Ibid.

31 Yale-Loer and others, *Secure Borders, Open Doors*.


34 DOS, *Transformational Diplomacy Strategic Plan Fiscal Years 2007–2012*.

35 DHS, *One Team, One Mission*.


37 President, “Memorandum of Understanding.”

38 Ibid.

39 Wasem, *Visa Policy*.

40 President, “Memorandum of Understanding.”
41 Ibid.
42 Wasem, Visa Policy.
45 US Department of State, Visa and Passport Security Strategic Plan (Washington, DC: Department of State, 2006).
47 Ibid.
48 Ibid.
49 Ibid.
50 Gerencser and others, Megacommunities.