

9 FAM APPENDIX K, 200 MANAGEMENT

(CT:VISA-857; 12-13-2006)
(Office of Origin: CA/VO/L/R)

9 FAM *APPENDIX K*, 201 SENIOR MANAGEMENT CONTROL

(CT:VISA-857; 12-13-2006)

It is essential that chiefs of mission (CM) and principal officers (PO) assume responsibility for the implementation and supervision of visa referral systems at posts. In many countries nonimmigrant visas (NIV) are a highly valued commodity, one which serves as a useful or necessary tool for other sections in the mission. However, laxity and non-compliance with established referral guidelines can lead to abuse, fraud and malfeasance. Similarly, informal pressure on interviewing officers is inappropriate, and in some cases would constitute an abuse of power. To avoid such problems, senior management of the mission and consular section must work together to ensure the integrity of the referral system.

9 FAM *APPENDIX K*, 202 CLEAR WRITTEN POLICY

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It is senior management's responsibility, in conjunction with the Consular Section, to develop a formal written visa referral policy and system consistent with the instructions in this appendix.

- (1) Class A referrals indicate a request for both expedited handling and issuance, if at all possible.*
- (2) Class B referrals request expedited appointments only. They also serve as a means for referring officers to provide information on an individual who may not be personally known to them, but on whom information has been provided to them that appears to merit prompt interview. B referral applicants must be prepared to establish their eligibility.*

The policy should be tailored to the individual and special circumstances of each mission and in a country with more than one post a consistent country-

wide policy should be developed. *Additionally, the policy should include a statement that the referral system should be the only conduit for mission staff to advocate on behalf of visa applicants.* The CM or PO at every NIV processing post must reissue the referral policy annually over their signatures. The referral policy must include key elements from this Appendix, including:

- (1) The objectives of the referral program, mechanisms for its use (forms, procedures for dropping off cases, etc.), and criteria for referral cases;
- (2) Accountability for referral cases (scanning referral forms, tracking number and quality of referrals), and possible sanctions for abuse of the system;
- (3) Necessity of avoiding informal pressure on consular officers; and
- (4) Appropriate mechanism for providing case-related information to the consular section.

9 FAM APPENDIX K, 203 MONITORING OF REFERRAL SYSTEM

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- a. The Chief of the Consular Section must provide a copy of the post's written referral policy and a briefing to each officer who is authorized to utilize the mission referral system before that officer submits or authorizes a referral. In addition, use of the referral system is an appropriate topic for discussions at country team meetings and sessions between consular section chiefs and CM or POs. Regular review of the reports generated through the NIV system on referring offices, agencies and individuals should provide useful information and help prevent fraud and malfeasance. Adjudicating officers should periodically check directly with referring officers to verify referrals and signatures.
- b. The consular section must follow standard operating procedures to ensure that referrals are properly identified in the NIV system and that supporting documentation is properly scanned into the system. The Chief of the Consular Section is required to review the referral program at least annually through a validation study or other method to determine whether there are individual instances or patterns of abuse of the referral system. Consular Chiefs who believe there are problems with the operation of the referral system at their posts are invited to consult with VO/F/P for advice on how to structure the program's operations.

9 FAM APPENDIX K, 204 ABUSE OF THE REFERRAL SYSTEM

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- a. Referring and approving personnel in all sections of the mission (including consular) will be held accountable for abuse of the referral system. Such abuse may result in a warning, suspension, or loss of referral privileges, depending upon the seriousness of the abuse. In case of flagrant abuse, the case may be referred to DS or DG/HR/ER for appropriate action. Federal courts look seriously at referrals, and have prosecuted individuals for complicity in false immigration schemes based on signed referral forms.
- b. The chief of the consular section must inform the chief of mission or Deputy Chief of Mission (DCM) and regional security officer (RSO) in writing of any instance in which an agency, office or officer abuses the system or is responsible for referring significant numbers of mala fide or unqualified applicants. The Chief of Mission should be prepared to review the case and impose such penalties as they and the Chief of the Consular Section believe appropriate.

9 FAM APPENDIX K, 205 REFERRAL PROGRAM OMBUDSMAN

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For those rare instances in which an officer may perceive undue pressure but feel unable to discuss it at post, Consular Affairs (CA) has established a referral program ombudsman who will discuss any concerns relating to a potential abuse of the referral system or a perception of pressure being exerted outside the referral system. The Assistant Secretary of the Bureau of Consular Affairs is the ombudsman for consular officers on consular issues and for any questions of possible undue influence on post referral programs. The Managing Director of the Visa Office (CA/VO) will serve as the first point of contact for the officers in the field and will bring cases of concern to the immediate attention of the Assistant Secretary. Officers may contact the Managing Director by phone or e-mail if they have concerns that undue pressure is being exerted within or outside the referral system.

9 FAM APPENDIX K, 206 ANNUAL CERTIFICATION OF REFERRAL POLICY

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- a. As part of the annual management controls certification, the consular section chief will certify that the referral policy has been re-issued by the CM or PO and that the policy conforms with the guidelines in 9 FAM *Appendix K, 200*. The certification should also note whether the validation studies or other methods of monitoring the referral program have uncovered any problems or instances of abuse, *as stipulated in 9 FAM Appendix K, 203*.
- b. Chiefs of consular sections must provide the established Mission Visa Referral policy to CA/VO/F/P for review initially before September 30, 2005, and thereafter only if there are changes to the written policy.