

Plan to Implement the Presidential Memorandum on Optimizing the Use of Federal Government Information in Support of the National Vetting Enterprise

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(U) Executive Summary

(U) This plan, submitted for your approval, is designed to implement National Security Presidential Memorandum-9 (NSPM-9), "*Optimizing the Use of Federal Government Information in Support of the National Vetting Enterprise*." This implementation plan focuses on the creation and operations of the National Vetting Center (NVC) which, as described in NSPM-9, is designed to improve the efficiency and effectiveness of U.S. Government vetting programs in order to better identify individuals who may pose a threat to national security, border security, homeland security, or public safety, consistent with law and policy.

(U//~~FOUO~~) Subject to the approval of this plan, the NVC plans to begin its initial operations in December 2018, by consolidating existing processes that support the vetting of aliens applying to the Electronic System for Travel Authorization (ESTA) in order to travel to the United States under the Visa Waiver Program (VWP).¹ The development and delivery of this new NVC process for ESTA in December 2018 is referred to as Phase One throughout this plan. This initial effort will involve vetting ESTA applicants against law enforcement and Intelligence Community (IC) information, presently conducted pursuant to existing agreements between the Department of Homeland Security (DHS), acting through U.S. Customs and Border Protection (CBP), and IC elements. Through the NVC process, CBP analysts will receive timely, consolidated responses from Vetting Support Agencies² through a single technology interface to ensure that U.S. Government data is appropriately informing ESTA adjudications. Vetting ESTA applicants through the NVC will improve CBP's ability to identify individuals who pose a potential threat to the United States and may be ineligible to travel under the VWP. Following Phase One, NVC staff will seek to leverage the NVC process for other authorized vetting functions in support of transportation, border security, and immigration decisions, as approved by the National Vetting Governance Board (NVGB). In addition to improving efficiency and effectiveness, consolidating vetting processes through the NVC will enable centralized oversight by legal and privacy, civil rights, and civil liberties (PCRCL) officers to ensure compliance with applicable law and policy.

(U) The NVGB, established pursuant to NSPM-9, serves as "the senior interagency forum for considering issues that affect the national vetting enterprise and the activities of the [NVC] and its support element." The NVGB has already met several times, set priorities for potential NVC expansion in 2019, and has begun identifying and recommending ways to enhance vetting operations across the U.S. Government. In addition, as directed in NSPM-9, the NVGB established a standing Legal Working Group and a standing Privacy, Civil Rights, and Civil Liberties (PCRCL) Working Group, both of which have been meeting regularly to advise the activities of the NVGB.

¹ (U) For additional information on the Visa Waiver Program (VWP), please see www.cbp.gov/travel/international-visitors/visa-waiver-program.

² (U//~~FOUO~~) In this plan, the departments and agencies whose information holdings will be queried or otherwise compared against as part of the NVC vetting process are referred to as "Vetting Support Agencies." These agencies will also assign limited personnel, consistent with NSPM-9, to the NVC as part of the Intelligence Community Support Element.

(U//~~FOUO~~) This plan describes the initial scope of NVC operations for Phase One; the roles of the agencies, organizations, and key positions involved in the NVC's operations; the plans for potential future vetting enhancements in Phase Two; the legal and PCRCL reviews conducted and planned for the NVC; and the resourcing strategy. Additional detail for Phase Two will be provided in future implementation updates, as appropriate.

1. (U) Purpose

(U) This implementation plan is provided pursuant to section 2(g) of NSPM-9, which states:

(U) Within 180 days of the date of this memorandum, the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Central Intelligence Agency, in coordination with the Director of the Office of Management and Budget, shall, through the Assistant to the President for Homeland Security and Counterterrorism and using the NSPM-4 process, jointly submit to the President for approval a plan to implement this memorandum.

2. (U) Overview and Background

2.1 (U) Need for Improvements to Vetting

(U) As noted in NSPM-9, border and immigration security are essential to ensuring the safety, security, and prosperity of the United States. Every day, the U.S. Government, particularly the Departments of State and Homeland Security, decides on millions of occasions whether to allow individuals to travel to the United States, grant immigration benefits, or take other actions that affect U.S. national and homeland security and public safety. These decisions (often referred to as "adjudications") should be informed by all relevant and appropriate information available to the U.S. Government, including information held by Federal law enforcement and intelligence agencies, in accordance with law and policy.

(U//~~FOUO~~) The U.S. Government has developed several different processes and procedures to evaluate an individual's suitability for access to the United States or other travel- or immigration-related benefits against information available to the U.S. Government (generally referred to as "vetting"). However, these processes are often designed for single uses that only leverage portions of potentially relevant data. These current processes rely heavily on primarily manual procedures which use separate technical interfaces and are not scalable or adaptable to meet ever-evolving threats.

(U) To improve our security, the U.S. Government should develop and use a consolidated set of technical tools and processes to enable a thorough, yet efficient review of appropriate intelligence, law enforcement, and other data. These tools and processes should provide a comprehensive picture to adjudicators consistent with law and in a manner that protects both the sources and methods of information obtained by the U.S. Government and the PCRCL of the individuals whose information is vetted. Creating and maintaining these tools and processes is the primary mission of the NVC.

(U) The NVC was established to “coordinate agency vetting efforts to identify individuals who present a threat to national security, border security, homeland security, or public safety.” The NVC will provide a capability, both in a shared physical presence and through virtual connectivity, to bring together participating agencies’ information in a manner that better informs vetting decisions by agencies with adjudication authority. A primary mission will involve coalescing U.S. Government information relevant to immigration and border security adjudications, including with respect to individuals who (1) seek a visa waiver or other immigration benefit, or a protected status; (2) attempt to enter the United States; or (3) are subject to an immigration removal proceeding. This information will be reviewed in a single technology interface by Adjudicating Agency³ analysts (further defined in Section 4.5) who will provide recommendations to their respective agencies concerning the adjudications.

(U//~~FOUO~~) Over time, the NVC will improve the efficiency and uniformity of existing vetting operations by standardizing the process through which Adjudicating Agency information is provided to and vetted against relevant law enforcement and intelligence information held by other agencies to the extent permitted by law and policy. Through the NVC workflow, information-sharing processes and analytic tools that have been developed for various national security vetting purposes will be enhanced, made more efficient and scalable, and applied to additional relevant Vetting Request Sets as appropriate.⁴

(U//~~FOUO~~) The NVC will improve the effectiveness of vetting operations over time by maximizing the IC and law enforcement data holdings used to support vetting; providing consolidated and more timely results in a centralized user interface to Adjudicating Agency analysts at the NVC; developing additional data analytics and vetting methodologies ((b)(3) per 50 USC 3024(i) (b)(3) per 50 USC 3024(i) (b)(3) per 50 USC 3024(i)); and expanding the current focus of vetting ((b)(5), (b)(7)(E)) to include other national security threat actors (NSTAs), such as those identified in NSPM-7, and other emerging threats.⁵ The NVC will also assist Vetting Support Agencies by sharing adjudication decisions

³ (U) In this plan, agencies with the authority to adjudicate travel, applicant, or immigration benefits are referred to as “Adjudicating Agencies.”

⁴ (U) For the purposes of this plan, the term “Vetting Request Sets” refers to discrete categories of information collected by or available to U.S. Government agencies from individuals who are seeking to travel to the United States, applying for an immigration benefit, or are otherwise undergoing vetting. A “vetting request” refers to a single individual in the larger Vetting Request Set. Adjudicating Agencies will use the NVC technical architecture, applications, and business process to allow Vetting Support Agencies to access a particular Vetting Request Set.

⁵ (U) For additional information on national security threat categories, see NSPM-7, *Integration, Sharing, and Use of National Security Threat Actor Information to Protect Americans*, which has a complementary, but separate, mission to NSPM-9. NSPM-7 specifically lists transnational organized crime, foreign intelligence activities directed against the United States, the proliferation of weapons of mass destruction, malign cyber activities, and the efforts of military threat actors as national security threat categories.

so that these agencies know the outcome of the relevant adjudications, a process that is currently conducted on an ad hoc basis. At the same time, the NVC will ensure appropriate PCRCL protections are in place before engaging in such activities.

(U) NSPM-9 does not provide any authority to the NVC (or any new authority to any agency) to collect, retain, store, or use information, or to make adjudicative decisions based on vetting. All activities undertaken at the NVC or at other agencies in support of the NVC are based on existing legal authorities. The points below describe the operating model of the NVC and the roles and responsibilities of the various participants in the NVC process.

- (U//~~FOUO~~) Adjudicating Agencies are responsible for making a decision or determination about an individual, often in the border or immigration context. In reaching these decisions, Adjudicating Agencies seek information about or related to the individual from Vetting Support Agencies. Adjudicating Agencies will, consistent with applicable law, including the Economy Act (31 U.S.C. § 1535), assign or detail personnel to serve as analysts at the NVC, who will review results provided by Vetting Support Agencies and make recommendations to the adjudicators in their respective Adjudicating Agencies. The analysts at the NVC will have access to NVC technology and may also have access to the Adjudicating Agency's own records and technical systems, if provided by the Adjudicating Agency. The analysts will remain under the operational control of their own agencies and will access and maintain information stored in NVC technology under the authority of their own agencies.
- (U//~~FOUO~~) The NVC's technology and business processes will be offered as a common service to Adjudicating Agencies and to Vetting Support Agencies. Adjudicating Agencies will be responsible for maintaining the records that contain their vetting requests, analysis, recommendations, and adjudications. Those records will be maintained by Adjudicating Agencies using the NVC's technical architecture as a service. Technology built for the NVC will also allow Vetting Support Agencies to continue to maintain and control their information in their own systems while allowing Adjudicating Agency analysts at the NVC to access vetting results, consistent with law and policy.
- (U//~~FOUO~~) The NVC will also establish a coordinated feedback process to ensure that Vetting Support Agencies have appropriate access to the vetting results submitted by other IC partner agencies as well as the Adjudicating Agencies' recommendation and final adjudication decision.

(U) The National Vetting Enterprise (NVE) is described in NSPM-9 as the coordinated efforts of agencies across the U.S. Government to collect, store, process, share, disseminate, and use accurate and timely biographic, biometric, and contextual information, including on a recurrent basis, where appropriate and in accordance with law and policy, to identify activities, associations with known or suspected threat actors, and other relevant indicators that inform adjudications and determinations related to national security, border security, homeland security, or public safety. These efforts are conducted in a manner that is consistent with the Constitution, Executive Order 12333, *United States Intelligence Activities*, as amended, other applicable law and presidential guidance, and policies and procedures pertaining to:

- (i) the appropriate handling of information about United States persons (as defined in Executive Order 12333) and other individuals protected by United States law;
- (ii) the protection of sources, methods, and activities;
- (iii) privacy, civil rights, and civil liberties; and
- (iv) the protection of other sensitive information.

(U) The activities of the NVC are part of the NVE, but the NVE also includes other coordinated vetting activities that are not facilitated by or coordinated through the NVC.

3. (U) NVC Phase One Capability

3.1 (U) Overview of NVC Phase One

(U//~~FOUO~~) We propose commencing Phase One of NVC operations in December 2018. At that time, NVC operations will enhance the existing vetting processes for ESTA application data – the information provided by applicants seeking to travel visa-free to the United States under the VWP. The new NVC technical architecture and operational processes deployed during Phase One will be sufficiently flexible and scalable to support enhancements for future operations in Phase Two. In order to commence Phase One, the NVC and its partners will develop the foundational processes that will be used for vetting at the NVC generally, including:

- (U//~~FOUO~~) A process for Adjudicating Agencies to provide Vetting Support Agencies with copies of or access to Vetting Request Sets for analysis against IC and law enforcement data holdings, as appropriate;
- (U//~~FOUO~~) A process for Vetting Support Agencies to provide the results of their analyses to a shared location in a common technical protocol for consolidation and review by Adjudicating Agencies' analysts assigned to the NVC;
- (U//~~FOUO~~) A process for Adjudicating Agency analysts to review vetting results and provide relevant, appropriate information and recommendations to adjudicators at the Adjudicating Agency (in accordance with rules governing the handling and safeguarding of the information, such as those set forth in Executive Order 13526, *Classified National Security Information*); and
- (U//~~FOUO~~) A system for managing NVC processes and conducting legal and PCRCL reviews to assess and ensure compliance with legal, PCRCL, and other requirements.

(U//~~FOUO~~) Because significant vetting operations already exist for the ESTA program, Phase One of NVC operations will consist largely of modifying the business and technical processes that Vetting Support Agencies use to provide results and updating the manner in which CBP analysts assigned to the NVC use that information. CBP's authority and responsibility to approve or deny an ESTA application will remain unchanged by the transition to NVC operations.

(U//~~FOUO~~) ESTA was selected for Phase One implementation based on the following factors, among others:

- (U//~~FOUO~~) Security benefit: Improving the security of travel to the United States through the VWP is a focus of the Administration and Congress. Consolidating information provided by the current Vetting Support Agencies and facilitating the delivery and review of that information prior to travel by ESTA applicants will better ensure that threat actors are kept out of the country.

- (S//NF) Practicality of implementation: (b)(1)

Throughout the execution of Phase One, legal, PCRCL, policy, technical, and resources issues will continue to be reviewed.

3.2 (U) NVC Technology

(U//~~FOUO~~) Adjudicating Agency analysts at the NVC will access Vetting Support Agency results through the NVC Case Management Solution, which will be accessible on a classified network and governed by access controls and use limitations. The DHS Office of Intelligence and Analysis (I&A), acting as a technical service provider, will develop the Case Management Solution to enable the recording of information throughout the vetting process and facilitate appropriate information sharing and management between Adjudicating Agencies, Vetting Support Agencies, and personnel at the NVC. (b)(7)(E)

(b)(7)(E)

(b) (5)

3.3 (U) NVC Facilities

(U//~~FOUO~~) The NVC will be physically located inside CBP's NTC facility in Sterling, Virginia, in a Secure Compartmented Information Facility (SCIF). The initial tenants of the NVC will include CBP's ESTA analysts, NVC management and oversight personnel, administrative staff, and the Intelligence Community Support Element (ICSE), consisting of personnel from Vetting Support Agencies, as described more fully in Section 4.6 below. The facility will include secure communications, satisfying the cyber security approvals of each participating agency, to facilitate interactions between personnel on-site and those operating from their agencies' home offices.

3.4 (U) NVC Relationship to the NTC

(U) The NTC is CBP's focal point for bringing together passenger and cargo data, access to law enforcement and IC records, and system analytics to identify those travelers and shipments that pose a threat to the homeland. NTC is a 24-hour, 7 days per week operation employing highly skilled officers, agents, and analysts from CBP and a wide range of other agencies who, among other things, identify, target, vet, screen, and conduct risk assessments of inbound and outbound passengers and cargo across all international modes of transportation to identify threats to national security or public safety. CBP analysts currently operating in secure facilities at the NTC and at CBP headquarters have access through a variety of means to intelligence information, and conduct analysis to inform NTC operational and adjudicative decisions. For Phase One of the NVC, CBP will assign analysts to the NVC.

(U//~~FOUO~~) The CBP analysts assigned to the NVC will continue to operate under the operational control of CBP, exercising CBP authorities to review vetting results and provide vetting recommendations to CBP officers authorized to make adjudications at NTC. Those CBP officers and supervisors at the NTC will have access to CBP analyst recommendations stored in NVC systems and will utilize those vetting recommendations in addition to other available information to make final adjudications. The NVC will be co-located at the NTC facility but will operate as an interagency center within DHS and as a separate organizational entity. The NTC is ultimately a primary CBP customer of the NVC process, much like the Department of State's (State) Bureau of Consular Affairs could be an NVC customer for visa processing in the future.

(U//~~FOUO~~) In the future, as NVC processes are used to vet other Vetting Request Sets, we expect that analysts from other Adjudicating Agencies will also relocate to the NVC, where feasible, to review and provide recommendations to their respective adjudicators.

3.5 (U) NVC Relationship with the Terrorist Screening Center (TSC)

(U) The NVC's mission is complementary to that of the TSC, and the two organizations will coordinate closely in the conduct of their efforts. The TSC is administered by the Federal Bureau of Investigation (FBI) under authorities delegated exclusively to the Attorney General of the United States in coordination with State, DHS, and the Office of the Director of National Intelligence (ODNI).

(U//~~FOUO~~) The TSC maintains the consolidated watchlist of known or suspected terrorists (and other watchlists containing NSTAs such as Transnational Organized Criminals), provides those lists to partners, and manages encounters with those subjects to provide operational awareness and maintain a common operating picture. The TSC's encounter-management process is solely responsible for ensuring frontline officers globally, and especially within the United States, have the relevant information about a known or suspected terrorist during an encounter. The effective management of watchlist encounters not only protects the nation by excluding individuals from entry into the United States, but also alerts law enforcement, IC, military, and foreign partner agencies about potential opportunities to act against threat actors already present in the United States and around the world.

(U//~~FOUO~~) Today, CT vetting across the NVE is facilitated by the watchlisting function performed by TSC and supported by IC elements. Through the watchlist, relevant terrorism information in agencies' data holdings has already been consolidated and organized and can therefore be more quickly and confidently identified as derogatory information for vetting purposes. (b)(7)(E)

(b)(7)(E)

3.6 (U) Watchlisting

(U//~~FOUO~~) Pursuant to procedures developed over the past two decades for counterterrorism, the responsibility for nominating new records or enhancing existing watchlist records (b)(7)(E)

(b)(7)(E)

A more robust description of how the NVC will support watchlisting activities will be provided in the Concept of Operations for NVGB review and approval before Phase One commences.

3.7 (U) Operational Coordination

(U//~~FOUO~~) In current practice, albeit rarely, (b)(7)(E)

(b)(7)(E)

A more robust description of NVC support of operational coordination will be provided in the Concept of Operations for NVGB review and approval before Phase One.

3.8 (U) Impact on and Notice to the Public

(U) Upon initiation of Phase One in December 2018, individuals who apply for an ESTA will go through the same Internet-based application process as is currently in place. The creation of the NVC does not require changes to the information collected and used to vet and process an ESTA application, but the changes in business processes resulting from the establishment of the NVC may result in longer response times for ESTA applications. Accordingly, CBP will develop an appropriate public communications plan to remind VWP travelers of the need to submit ESTA applications well in advance of traveling to the United States.

(U) Prior to the commencement of operations, the NVC will submit, and the DHS Privacy Office and Office for Civil Rights and Civil Liberties will approve, a Privacy Impact Assessment (PIA) on the NVC. The PIA will assess the potential impact from NVC operations on an individual's privacy, civil rights, and civil liberties and will serve as additional notice to the public, mitigating privacy risks and enhancing overall transparency concerning the NVC.

3.9 (U) Redress

(U//~~FOUO~~) The U.S. Government will ensure adequate redress mechanisms are in place to review complaints and requests from individuals impacted by vetting programs. Redress is an integral part of this commitment to ensuring PCRCL protections. The improved vetting processes implemented under NSPM-9 will be accompanied by a review of existing redress procedures to ensure that as vetting capabilities grow, agencies have processes in place to afford individuals opportunities for redress.

(U//~~FOUO~~) Because the NVC is not an Adjudicating Agency, it will not establish its own redress system. Beginning with Phase One and throughout the operations of the NVC, DHS's Office for Civil Rights and Civil Liberties and Privacy Office, in coordination with the DHS Traveler Redress Inquiry Program (DHS TRIP),⁶ corresponding offices in other Adjudicating Agencies, and other redress programs as appropriate, will review NVC plans and programs to ensure that adequate DHS and interagency redress processes are in place and determine whether they can be enhanced. Any enhancements to redress procedures accompanying Phase One of the NVC will be discussed in the NVC PIA and in future NVC implementation plans.

(U) Individual rights to access records and redress will not be affected by the NVC process. Individuals who wish to seek access to their own ESTA records may file a Freedom of Information Act request with CBP.⁷ Additionally, some ESTA applicants may seek judicial review to correct their records.⁸ Individuals who wish to seek a review of an ESTA denial will continue to file an inquiry with DHS through DHS TRIP. Standard operating procedures documenting the use of NVC systems will be developed to ensure that intelligence and other information used to inform adjudicative decisions, is recorded in a manner that facilitates redress, and is protected from disclosure, as appropriate.

3.10 (U) Phase One Deliverables and Schedule

(U) Multiple deliverables must be implemented by the NVC, DHS I&A, CBP, the ICSE, and others by December 2018 in order to commence Phase One on schedule.

3.10.1 (U) CBP Deliverables

- (U) Design, test, and implement a new unclassified ESTA dataflow to account for the new automated response from Vetting Support Agencies. (Due: During Q1 FY2019)

⁶ (U) See www.dhs.gov/trip. DHS TRIP is a well-established redress program that administers and adjudicates most travel-related redress claims, regardless of citizenship. DHS TRIP provides a one-stop mechanism for individuals to request redress and seek resolution for difficulties they experience during a travel screening or vetting process, including crossing U.S. borders.

⁷ (U) The Freedom of Information Act, 5 U.S.C. 552, provides a means for qualified persons to request records from agencies. For additional information about Privacy Act and FOIA rights of access to records related to the ESTA program, please see the ESTA System of Records Notice, 74 Fed. Reg. 45,069 (Sept. 2, 2016).

⁸ (U) Certain residents of other countries who are neither U.S. citizens nor lawful permanent residents may have limited rights to access and seek correction of their records under the Judicial Redress Act.

- (U//~~FOUO~~) Upgrade the accreditation of the current SECRET-level facility at the NTC to a TS//SCI-level SCIF. (Due: During Q1 FY2019)
- (U) Relocate and consolidate CBP ESTA vetting analysts to the new NVC SCIF. (Due: During Q1 FY2019).
- (U) Complete User Acceptance Testing. (Due: During Q1 FY2019)

3.10.2 (U) DHS I&A Deliverables

(U//~~FOUO~~) DHS I&A is responsible for delivering the NVC Case Management Solution, together with the supporting workflows, dataflows, alerting/notification services, monitoring/auditing services, and appropriate connectivity (B)(7)(E)

- Complete system development of the NVC Viewer and Data Store. (Due: During Q1 FY2019)
- Complete system internal testing. (Due: During Q1 FY2019)
- Complete integration testing of the NVC Case Management Solution capabilities with Vetting Support Agency-developed systems and workflows (see Section 3.2.3 below). (Due: During Q1 FY2019)
- Draft and obtain approval of a Privacy Impact Assessment for tools supporting the NVC from the DHS Chief Privacy Officer (Due: During Q1 FY2019)

3.10.3 (U) IC Support Element (ICSE) Deliverables

(U//~~FOUO~~) To support Phase One, Vetting Support Agencies will provide results for comparisons of data corresponding to ESTA applications and pertinent Vetting Support Agency data holdings to the NVC. These results, which today are provided via separate feeds to multiple destinations, will now be consolidated into a single data repository accessible to Adjudicating Agency analysts at the NVC as well as the on-site team of ICSE personnel.

(U) The following will be provided in Phase One:

- (U//~~FOUO~~) A support element (see Section 4.6) to deliver timely virtual vetting support to the NVC. This support element will also maintain a small on-site presence to help facilitate the Vetting Support Agencies' efforts in support of the NVC. (b)(7)(E), (b)(3) per 50 USC 3024(i)
(Due: During Q1 FY2019)
- (U//~~FOUO~~) Complete technological requirements to deliver vetting results (b)(7)(E) and ensure that Vetting Support Agencies provide vetting results for each vetting request provided by CBP. The results will consist of information that the contributing Vetting Support Agency believes has met an analytic threshold and has been cleared for dissemination to and use by Adjudicating Agencies in

accordance with the relevant caveats included in the dissemination.⁹ (Due: Testing and Operationally Ready both during Q1 FY2019)

3.10.4 (U) NVC Deliverables

- (U) Draft and obtain the approval of a PIA (classified and public versions) for the NVC from the DHS Chief Privacy Officer. (Due: During Q1 FY2019)

3.11 (U) Implementation Review

(U//~~FOUO~~) In May 2018, the NVGB determined it would oversee an efficacy and operational review of NVC Phase One operations before commencing Phase Two. This review will consist of analyzing the efficacy of Phase One operations, preparing metrics, reviewing any unintended consequences, and ensuring that Phase One activities are consistent with any previous analysis conducted by the Legal and PCRCL Working Groups. The Director of the NVC will report the results of this review to the NVGB in Q1 CY2019 and an after action will be provided in the next implementation plan. In addition, the NVGB will determine whether any audits, surveys, interviews, or data calls are appropriate to assess Phase One and implications for future operations.

(U//~~FOUO~~) Similarly, the NVC is working with CBP and Vetting Support Agencies to develop metrics for NVC operations for the purposes of accountability, transparency, and to inform resource allocation decisions. A baseline of these metrics will be included in the next implementation plan.

4. (U) NVC and Stakeholder Roles

4.1 (U) Governance Board Composition and Role

(U) NSPM-9 requires the Secretary of Homeland Security, in coordination with the Secretary of State, the Attorney General, the Secretary of Defense, the Director of National Intelligence, and the Director of the Central Intelligence Agency, to establish the NVGB. By direction of the NSPM, the NVGB is “the senior interagency forum for considering issues that affect the national vetting enterprise and the activities of the Center and its support element.” The NVGB first met on March 23, 2018. At its second meeting on April 26, 2018, the NVGB considered and approved its Charter (see appendix).

(U) The NVGB agreed the designated DHS representative will be the first chair, with the chair alternating annually thereafter among the representatives designated by the Secretary of State, the Attorney General, the Director of National Intelligence, and the Secretary of Homeland Security (not necessarily in that order).

⁹ (U) Information that has been deemed “analytically significant” by an intelligence element will also be presumed to be in adherence to the IC Analytic Standards established in IC Directive 203 and must conform with that element’s dissemination requirement under Executive Order 12333.

~~(S//NF)~~ The NVGB is composed of the six designated members specified in NSPM-9. The NVGB may decide that additional agency participation is warranted due to operational activities conducted by other agencies that require support from the NVC, significant data holdings in the possession of or accessible by other agencies, or for other purposes. ~~(b)(1), (b)(5)~~

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] In addition to ensuring that these component agencies are represented by their parent departments on the NVGB, the NVGB has adopted the practice of inviting personnel from these component agencies to NVGB meetings, as appropriate.

(U) As required by NSPM-9, the NVGB established two standing working groups, the Legal Working Group and the PCRCL Working Group. Each working group consists of personnel from agencies involved in the NVE. Given the importance of both working groups to the proper functioning of the NVC and U.S. Government vetting activities more generally, the NVGB charter requires that a representative from each working group serve as *ex officio* Board members with full access and insight into the NVGB's meetings and activities.

(U) Additionally, both the NVC Director and the Identity Intelligence Executive (I2X) within the Office of the Director of National Intelligence (ODNI) serve as *ex officio* members of the NVGB. The NVC Director is responsible for providing regular reports to the NVGB on NVC activities, making recommendations for the NVGB's consideration, and providing administrative support to the NVGB in the execution of its activities.

4.2 (U) NVC Leadership, Management, and Administration

(U//~~FOUO~~) The NVC Director will lead the day-to-day operations of the NVC and communicate its priorities and direction in accordance with its mission as set forth in NSPM-9. The Director will also serve as the NVC's representative to the NVGB. In this capacity, the Director will make resourcing recommendations to the NVGB involving the vetting of additional Vetting Request Sets, use of expanded Vetting Support Agency data holdings, engaging new Vetting Support Agencies, and employing additional support, whether physical or virtual, from Vetting Support Agencies. The Director will coordinate with the ICSE to ensure that Vetting Support Agencies are meeting the NVC's requirements.

(U//~~FOUO~~) The Director will represent the NVC to DHS leadership to secure proper funding, facilities, technology, and personnel for the NVC itself. The Director will respond to any congressional and other oversight inquiries related to the NVC, in coordination with the appropriate agencies. Finally, the Director will represent the NVC at all senior-level meetings within DHS, with interagency partners, the National Security Council and Office of Management and Budget staff, and with external partners.

(U//~~FOUO~~) As set forth in NSPM-9, the Department of State and the Department of Justice (DOJ) will each have Deputy Directors at the NVC who will represent their agencies' equities in the direction and coordination of the NVC's efforts to expand and improve the NVE as well as to provide policy-level guidance regarding NVC activities, resources, and mission

development. The Deputy Directors will represent the NVC to the leadership of their respective agencies and work with the NVC Director and the NVGB to recommend and secure appropriate Vetting Support Agency resources and support as well as home agency funding, work space, technology, and personnel support to the NVC. The Deputy Directors will also facilitate proper interagency coordination and communication on NVC vetting procedures.

(U//~~FOUO~~) The Senior Legal Advisor to the NVC, assigned by the DHS Office of the General Counsel, will assume primary responsibility for legal support to the NVC's vetting mission. The Senior Legal Advisor's key duties will include providing legal advice and counsel regarding the establishment of the NVC and implementation and execution of NSPM-9. As such, the Senior Legal Advisor will consult and coordinate with all relevant stakeholders, including policy and PCRCL representatives and Adjudicating Agency and Vetting Support Agency legal representatives. Additionally, in coordination with Adjudicating Agency and Vetting Support Agency legal representatives, as appropriate, the Senior Legal Advisor will provide advice and counsel concerning the roles and responsibilities within the NVC and its relationship with Vetting Support Agency partners. The Senior Legal Advisor, in coordination with Adjudicating Agency and Vetting Support Agency legal representatives, will also work to identify and resolve legal issues pertaining to NVC operations and activities and support by or to Vetting Support Agencies, including with respect to U.S. persons or individuals located within the United States, and with respect to issues regarding legal and policy limitations on and requirements for the retention, analysis, use, and disclosure of information. The Senior Legal Advisor in consultation with the NVC Privacy, Civil Rights, and Civil Liberties Officer, as appropriate, will also develop and deliver training on legal requirements and restrictions concerning the operations and activities of the NVC, particularly with respect to information retention, analysis, use, and disclosure. Finally, the Senior Legal Officer will represent the NVC in discussions of legal matters at NVGB meetings, within DHS, and with counterparts from Adjudicating Agencies and Vetting Support Agencies.

(U//~~FOUO~~) The NVC Privacy, Civil Rights, and Civil Liberties Officer will provide dedicated support for all privacy and civil rights and civil liberties related issues at the NVC. The officer's main duties will include ensuring that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personally identifiable information (PII), and developing policy regarding privacy, civil rights, and civil liberties protections relating to vetting processes. To ensure that appropriate PCRCL protections are included in all aspects of NVC operations, key responsibilities of the PCRCL Officer will include evaluating new or modified NVC technologies, compliance with the Privacy Act of 1974, evaluating new or expanded initiatives involving immigration and border security vetting programs or Vetting Support Agency data and analytic processes, ensuring the completion of privacy compliance documentation where required or appropriate, analyzing new or modified information-sharing activities related to the NVC, training PCRCL staff and analysts assigned to the NVC on PCRCL matters, conducting appropriate auditing and oversight activities including to ensure that U.S. person or special protected class (e.g., asylum) data is being handled and used appropriately, and supporting the proper functioning of redress processes related to vetting conducted at the NVC.

(U) In addition to the roles defined above, there will be a small number of staff assigned to support the NVC, including a senior technical director, a chief of staff, and a senior representative from DHS I&A. The NVC Director will also manage an executive secretariat to assist the NVGB in carrying out its management and oversight functions.

4.3 (U) Legal Working Group

~~(S//NF)~~ NSPM-9 requires the establishment of a standing Legal Working Group to review the activities of the NVC and this implementation plan to ensure that those activities comply with applicable law. (b)(1)

[REDACTED]

[REDACTED]

[REDACTED]

(U//~~FOUO~~) The Legal Working Group will continue to assess any proposals for new or expanded vetting, including new Vetting Request Sets referred for vetting support, the comparison of Vetting Request Sets to data previously not used for such purposes, the deployment of new or enhanced applications or algorithms, or the use of vetted information for new adjudicative or operational purposes. In performing these assessments, the Legal Working Group will identify any legal or litigation risk issues attendant to such proposals and propose ways to mitigate such risk. The Legal Working Group will inform the NVGB of its legal analysis as a prerequisite for approval of a vetting proposal by the NVGB.

4.4 (U) Privacy, Civil Rights, and Civil Liberties Working Group

(U) NSPM-9 requires the establishment of a standing Privacy, Civil Rights, and Civil Liberties (PCRCL) Working Group to routinely review the activities of the Center to ensure that those activities are conducted in a manner that appropriately protects PCRCL, and to advise the NVGB. Additionally, NSPM-9 requires that the Working Group review the implementation plan and future implementation plans prior to submission to the President. The NVGB formally established the PCRCL Working Group on March 23, 2018.

~~(S//NF)~~ The PCRCL Working Group is co-chaired by the DHS Chief Privacy Officer, the DHS Officer for Civil Rights and Civil Liberties, and the ODNI Civil Liberties Protection and Chief Transparency Officer. The NVC PCRCL Officer will coordinate the activities of the Working Group and serve as a participating member. (b)(1)

[REDACTED]

(U//~~FOUO~~) In executing NSPM-9 requirements, the PCRCL Working Group serves as a forum for interagency collaboration, coordination, and integration on PCRCL matters including the activities of the NVC and its intelligence support element. The PCRCL Working Group will also ensure that NVC activities are conducted with appropriate transparency. The Working Group will continue to assess any proposals for new or expanded vetting, including new Vetting Request Sets referred for vetting support, the comparison of Vetting Request Sets to data previously not used for such purposes, the deployment of new or enhanced applications or algorithms, or the use of vetted information for new adjudicative or operational purposes. In performing these assessments, the working group will identify any PCRCL risks related to such

proposals and propose mitigation strategies. The Working Group will inform the NVGB of its analysis as a prerequisite for approval of a vetting proposal by the NVGB.

4.5 (U) Adjudicating Agency Analysts at the NVC

(U//~~FOUO~~) Adjudicating Agency analysts at the NVC will be assigned or detailed by their respective agencies for the purpose of reviewing results indicating possible matches to holdings from Vetting Support Agencies, documenting the results of their vetting analysis in the NVC Case Management Solution, and providing unclassified information and recommendations to inform adjudicative or operational decisions by their respective agencies. Adjudicating Agency analysts will remain under the operational control and authority of their respective agencies. The Adjudicating Agency will determine how to incorporate the information and recommendations it receives from its analysts at the NVC into its adjudications.

(U//~~FOUO~~) The number and schedule of Adjudicating Agency analysts at the NVC will be determined by the operational needs and resources of the Adjudicating Agency, but all analysts will hold TS//SCI clearances and have the ability to review disseminated intelligence and other relevant reporting from the IC.¹⁰

4.6 (U) ICSE and Identity Intelligence Executive

(U//~~FOUO~~) The ICSE is an independent entity established by the Director of National Intelligence pursuant to NSPM-9 and is comprised of certain IC elements providing support to the NVC in accordance with their existing authorities. The composition of the ICSE will be a combination of assignees physically co-located at the NVC and virtual support by personnel located at the relevant IC elements' own facilities. The ICSE will provide identity discovery, resolution, and operational coordination support to the NVC.

(U//~~FOUO~~) The on-site contingent of IC assignees will primarily focus on the day-to-day monitoring and facilitation of the integrated vetting workflow and provide coordination and liaison support to IC components directly supporting NVC activities. (b) (5)

Additionally, the on-site IC personnel will work continuously with Adjudicating Agency analysts at the NVC and Adjudicating Agencies to ensure the IC vetting support and information provided meets stated requirements. The ICSE's virtual component will execute vetting support activities against relevant information within their respective data holdings, as appropriate, and provide vetting results (b)(7)(E) for consolidated review. These combined efforts will be responsible for ensuring that the NVC receives appropriate, standardized, and timely access to relevant evaluated biographic, biometric, contextual, and related derogatory information, as applicable.

(U//~~FOUO~~) The ICSE is led by a Director who will provide day-to-day direction and guidance for the ICSE's operations in support of and in consultation with the Director of the

¹⁰ (U//~~FOUO~~) For Phase One, CBP analysts reviewing results for ESTA applications will all be on-site at the NVC. In the event that other Adjudicating Agencies seek to house their vetting analysts elsewhere, the NVC will explore methods to provide remote access to those analysts. Such an arrangement would require secure remote access to the NVC viewer and would be reviewed by the NVGB, the NVC, and the I2X prior to implementation. Remote access by agency analysts would not otherwise affect the NVC workflow process.

NVC. The ICSE Director will be assigned by the Director of National Intelligence and report to the Identity Intelligence Executive, a senior executive from the ODNI. The I2X serves as the DNI's senior advisor on all IC matters related to identity intelligence (I2). As the IC's programmatic and technical lead for I2, they will coordinate and synchronize the development, integration, and interoperability of I2 capabilities across the IC to include the alignment of the intelligence support to vetting.

5. (U) NVC Phase Two

5.1 (U) Overview

(U//~~FOUO~~) Beginning in 2019 and continuing for several years thereafter, the NVC expects to implement a series of enhancements – some at the NVC itself, but many through prior improvements and investments by other agencies participating in and supporting the NVC – to further improve the efficiency and effectiveness of vetting. These future improvements to the NVC will be done under the oversight and direction of the NVGB.

(U//~~FOUO~~) Initial work being performed in Phase One intends to deliver the initial components of an extensible framework with an end-to-end capability for vetting an initial Vetting Request Set (ESTA) (b)(7)(E)

(b)(7)(E) As appropriate and where approved by the NVGB, future phases of the NVC will focus on growing the vetting effort along three fronts: increasing the scale of effort by incorporating additional Vetting Request Sets; increasing the scope of effort by including additional threat actor categories; and increasing the depth of effort (b)(5)

5.2 (U) Increasing the Depth, Scope, and Scale of Vetting

- (U) Depth

(S//~~NF~~) (b)(1), (b)(3) per 50 USC 3024(i)

(b)(1), (b)(3) per 50 USC 3024(i), (b)(7)(E)

(S//~~NF~~) (b)(1), (b)(3) per 50 USC 3024(i), (b)(7)(E)

(b)(1), (b)(3) per 50 USC 3024(i), (b)(7)(E)

- (U) Scale

~~(S//NF)~~ (b)(5), (b)(1)

(U//~~FOUO~~) DHS is in the process of developing a person-centric vetting request capability, which will change both how Vetting Support Agencies receive Vetting Request Sets and what they will receive. (b)(7)(E)

11 (b)(7)(E)

centric vetting request capability will be conducted by the NVC PCRCL Officer, the NVC Senior Legal Advisor, and the Legal and PCRCL Working Groups. Prior to implementation of this capability, DHS will publish a new PIA to ensure appropriate public transparency prior to implementing this capability.

(U//~~FOUO~~) The infrastructure used to support the NVC will also evolve and expand as the scope and scale of its operations expand. The underlying technical infrastructure will require upgrades over time to accommodate the increased size and volume of data transfers across networks while also achieving the mission needs for timeliness. The NVC will also require the ongoing development and implementation of data access control safeguards as more Vetting Request Sets are introduced into the NVC architecture. A robust access control solution will be developed to manage the complexity of users, data, and law enforcement or intelligence authorities. This solution will leverage, to the greatest extent possible, existing IC services to enable access control.

6. (U) Resourcing Strategy

(U//~~FOUO~~) The NVC's resourcing strategy, which also impacts the NVE, can be divided into three distinct phases: resources required for Phase One delivery in December 2018; resources required in FY19; and resources required in FY20-24.

(U//~~FOUO~~) Since NVC operations were not contemplated in FY18 budget submissions, Phase One NVC activities are leveraging current resources where possible.

(S//NF) (b)(1)

[REDACTED]

(S//NF) (b)(1)

[REDACTED]

(S//NF) (b)(1)

[REDACTED]

(S//NF) (b)(1)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. (U) Conclusion

(U) As directed in NSPM-9, within 180 days of approval by the President of this implementation plan, and every 180 days thereafter until execution is complete, the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Central Intelligence Agency, in coordination with the Director of the Office of Management and Budget, will provide updates on the execution of NSPM-9. The next update will provide a status of Phase One implementation, an after action, as well as further details on Phase Two planning.

8. (U) Appendices

8.1 (U) List of Acronyms

(b)(7)(E) (b)(7)(E)	(b)(7)(E) (b)(7)(E) (b)(7)(E)
CBP	U.S. Customs and Border Protection
(b)(7)(E) (b)(7)(E)	(b)(7)(E) (b)(7)(E) (b)(7)(E)
CT	Counterterrorism
DHS	Department of Homeland Security
ESTA	Electronic System for Travel Authorization
FBI	Federal Bureau of Investigation
FY	Fiscal Year
FOIA	Freedom of Information Act
FOUO	For Official Use Only
I&A	Office of Intelligence and Analysis (DHS)
I2X	Identity Intelligence Executive
IC	Intelligence Community
ICE	U.S. Immigration and Customs Enforcement
ICSE	Intelligence Community Support Element
NSPM	National Security Presidential Memorandum
NSTA	National Security Threat Actor
NTC	National Targeting Center
NVC	National Vetting Center (or "Center")
NVE	National Vetting Enterprise
NVGB	National Vetting Governance Board (or "Board")
ODNI	Office of the Director of National Intelligence
PCRCL	Privacy, Civil Rights, and Civil Liberties
PIA	Privacy Impact Assessment
DHS TRIP	DHS Traveler Redress Inquiry Program
TS	Top Secret
TSC	Terrorist Screening Center
U	Unclassified

8.2. (U) National Security Presidential Memorandum – 9

Issued February 6, 2018

MEMORANDUM FOR THE VICE PRESIDENT
THE SECRETARY OF STATE
THE SECRETARY OF THE TREASURY
THE SECRETARY OF DEFENSE
THE ATTORNEY GENERAL
THE SECRETARY OF HOMELAND SECURITY
THE ASSISTANT TO THE PRESIDENT AND CHIEF OF STAFF
THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET
THE DIRECTOR OF NATIONAL INTELLIGENCE
THE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY
THE ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS
THE COUNSEL TO THE PRESIDENT
THE ASSISTANT TO THE PRESIDENT FOR HOMELAND SECURITY AND
COUNTERTERRORISM
THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF
THE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION
THE DIRECTOR OF THE NATIONAL SECURITY AGENCY
THE DEPUTY ASSISTANT TO THE PRESIDENT AND NATIONAL SECURITY ADVISOR
TO THE VICE PRESIDENT
THE CO-CHAIRS OF THE PRESIDENT'S INTELLIGENCE ADVISORY BOARD
THE ARCHIVIST OF THE UNITED STATES

SUBJECT: Optimizing the Use of Federal Government Information in Support of the National Vetting Enterprise

Border and immigration security are essential to ensuring the safety, security, and prosperity of the United States. The Federal Government must improve the manner in which executive departments and agencies (agencies) coordinate and use intelligence and other information to identify individuals who present a threat to national security, border security, homeland security, or public safety. To achieve this goal, the United States Government must develop an integrated approach to use data held across national security components. I am, therefore, directing the establishment of a National Vetting Center (Center), subject to the oversight and guidance of a National Vetting Governance Board (Board), to coordinate the management and governance of the national vetting enterprise.

Section 1. Policy. (a) The United States must protect its people from terrorist attacks and other public safety threats. Vetting procedures associated with determining whether individuals pose threats to national security, border security, homeland security, or public safety play a critical role in meeting this obligation. It is the policy of the United States, as authorized and

appropriate, to collect, store, share, disseminate, and use accurate and timely biographic, biometric, and contextual information in support of immigration and border security, including with respect to individuals who (i) seek a visa, a visa waiver, or other immigration benefit, or a protected status; (ii) attempt to enter the United States; or (iii) are subject to an immigration removal proceeding.

(b) Where authorized and appropriate, it is also the policy of the United States to process biographic, biometric, and contextual information, including on a recurrent basis, so as to identify activities, associations with known or suspected threat actors, and other relevant indicators that inform adjudications and determinations related to national security, border security, homeland security, or public safety. These activities should be conducted using all relevant and appropriate Federal Government information, including both intelligence and law enforcement information.

(c) The activities described in this memorandum should always be conducted in a manner that is consistent with the Constitution; Executive Order 12333 of December 4, 1981 (United States Intelligence Activities), as amended; other applicable law and Presidential guidance; and policies and procedures pertaining to:

- (i) the appropriate handling of information about United States persons (as defined in Executive Order 12333) and other individuals protected by United States law;
- (ii) the protection of sources, methods, and activities;
- (iii) privacy, civil rights, and civil liberties; and
- (iv) the protection of other sensitive information.

The coordinated efforts of agencies to conduct all of these activities in the manner described above constitute the national vetting enterprise.

Sec. 2. Implementation. The policy described in section 1 above shall be implemented as follows:

(a) The Secretary of Homeland Security, in coordination with the Secretary of State, the Attorney General, and the Director of National Intelligence, shall establish the Center to support the national vetting enterprise.

(i) The Center shall coordinate agency vetting efforts to identify individuals who present a threat to national security, border security, homeland security, or public safety. Agencies may conduct any authorized border or immigration vetting activities through or with the Center. Agencies may support these additional activities, provided that such support is consistent with applicable law and the policies and procedures described in subsections (b) and (d) of this section.

(ii) The Secretary of Homeland Security shall designate a full-time senior officer or employee of the Department of Homeland Security to serve as the director of the Center. The Secretary of State and the Attorney General shall detail or assign senior officials from their respective agencies to serve as deputy directors of the Center.

(iii) The director shall lead the day-to-day operations of the Center, communicate vetting needs and priorities to other agencies engaged in the national vetting enterprise, and make resourcing recommendations to the Board established pursuant to subsection (e) of this section.

(iv) Agencies shall provide to the Center access to relevant biographic, biometric, and related derogatory information for its use to the extent permitted by and consistent with applicable law and policy, including the responsibility to protect sources and methods. Agencies and the Center shall, on a consensus basis, determine the most appropriate means or methods to provide access to this information to the Center.

(v) The Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Central Intelligence Agency shall, on a continuing basis, work together to ensure, consistent with the authorities and available resources of each official's respective agency, that the daily operations and functions of the Center, as determined by the Board, are supported, including through the assignment of legal and other appropriate personnel, and the provision of other necessary resources, consistent with applicable law, including the Economy Act (31 U.S.C. 1535). To the extent permitted by law, details or assignments to the Center should be without reimbursement.

(vi) The day-to-day operations of the Center shall be executed by appropriate personnel from agencies participating in the national vetting enterprise, to the extent permitted by law, in a manner that adequately facilitates active and timely coordination and collaboration in the execution of the Center's functions. Agencies shall participate in the Center and shall provide adequate physical presence to enable the Center to effectively accomplish its mission. To the extent appropriate, additional agency co-location may be virtual rather than physical. Each agency shall fund its participation in the Center, consistent with the agency's mission and applicable law. There shall be no interagency financing of the Center.

(vii) The Center shall not commence operations until the President has approved the implementation plan described in subsection (g) of this section.

(b) The Center shall enable and facilitate the appropriate use and interagency deconfliction of all relevant information provided to it to inform the adjudication decisions of the national vetting enterprise.

(i) Databases, data sets, knowledge bases, systems, and technical architectures controlled by the Federal Government, including those established pursuant to Presidential guidance or other Federal policies, may be used to support the activities of the Center to the extent permitted by and consistent with the legal and policy frameworks governing their use.

(ii) Information provided to and used by the Center shall be managed and maintained consistent with applicable information security and cybersecurity laws, standards, practices, and procedures.

(c) The Director of National Intelligence, in coordination with the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, and the heads of relevant Intelligence Community (IC) elements, shall establish a support element to facilitate, guide, and coordinate all IC efforts to use classified intelligence and other relevant information within IC holdings in direct support of the Center.

(i) The Director of National Intelligence shall assign a senior official from ODNI or from another IC element (with the concurrence of the head of that IC element), and in accordance with applicable law, to serve as the head of the support element. This official shall provide day-to-day direction and guidance for the support element's operations in support of and in consultation with the director of the Center. The official shall report to the Director of National Intelligence through an Identity Intelligence Executive.

(ii) The support element shall provide focused, dedicated support to the Center, responding to the Center's needs by ensuring it receives appropriate, standardized, and timely access to biographic, biometric, and related derogatory information relevant to the national vetting enterprise, to the extent permitted by law and consistent with applicable policy, including section 1 of this memorandum, and in accordance with the operational considerations of both the Center and the IC elements supporting it.

(iii) Where appropriate, the personnel and other resources of the support element may be virtually rather than physically co-located at the Center, with such virtual support facilitated on a day-to-day basis by assigned personnel from agencies that are physically present at the Center, as determined in the implementation plan described in subsection (g) of this section.

(d) Consistent with section 1(c) of this memorandum, all activities of the Center and the support element shall be, at all times, conducted in a manner consistent with the Constitution; Executive Order 12333, as amended; other applicable law and Presidential guidance; and policies and procedures pertaining to:

- (i) the appropriate handling of information about United States persons (as defined in Executive Order 12333) and other individuals who may have rights under United States law;
- (ii) the protection of sources, methods, and activities;
- (iii) privacy, civil rights, and civil liberties; and
- (iv) the protection of other sensitive information.

(e) The Secretary of Homeland Security, in coordination with the Secretary of State, the Attorney General, the Secretary of Defense, the Director of National Intelligence, and the Director of the Central Intelligence Agency shall establish the Board.

(i) The national vetting enterprise shall act under the guidance of the Board, which shall serve as the senior interagency forum for considering issues that affect the national vetting enterprise and the activities of the Center and its support element. The Board shall adopt appropriate guidance for agencies to enable the successful execution of the national vetting enterprise and make related resource recommendations to agencies providing direct support to the Center. The Board shall also advise the Director of National Intelligence, through the Identity Intelligence Executive, on the IC resources necessary to support the mission of the Center.

(ii) The Board shall consist of six senior executives, one designated by each of the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Central Intelligence Agency.

(iii) The Board may invite other relevant agencies engaged in the national vetting enterprise to participate as required to achieve the national security objectives of the national vetting enterprise.

(iv) The chair of the Board shall rotate annually among the individuals designated from the Department of State, the DOJ, the Department of Homeland Security, and the Office of the Director of National Intelligence. The director of the Center shall serve as an observer at Board meetings.

(v) The Board shall endeavor to reach consensus on all matters presented to it, including the scope of the Center's activities. If issues cannot be resolved by consensus, the Board shall refer them to the staff of the National Security Council for consideration, consistent with National Security Presidential Memorandum-4 of April 4, 2017 (Organization of the National Security Council, the Homeland Security Council, and Subcommittees)(NSPM-4), or any successor document.

(vi) To ensure that the activities of the Board and the Center comply with applicable law and appropriately protect individuals' privacy, civil rights, and civil liberties, the Board shall establish a standing Legal Working Group and a separate standing Privacy, Civil Rights, and Civil Liberties Working Group, both of which shall routinely review the activities of the Center and advise the Board. These working groups shall also review the implementation plan described in subsection (g) of this section prior to its submission to the President.

(f) The heads of agencies engaged in the national vetting enterprise shall prioritize, as a vital national security mission, the provision of necessary and appropriate resources to support the national vetting enterprise, including the Center, consistent with their agency's respective authorities and appropriations.

(g) Within 180 days of the date of this memorandum, the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Central Intelligence Agency, in coordination with the Director of the Office of Management and Budget, shall, through the Assistant to the President for Homeland Security and Counterterrorism and using the NSPM-4 process, jointly submit to the President for approval a plan to implement this memorandum. The implementation plan shall, at a minimum, address the following:

- (i) the initial scope of the Center's vetting activities;
- (ii) the roles and responsibilities of agencies participating in the Center;
- (iii) the roles and responsibilities of IC elements participating in the Center's support element;
- (iv) the initial categories of information to be used in support of the Center's activities;
- (v) a resourcing strategy for both the Center and its support element, which shall include the initial projected cost and staff required to operate the Center;
- (vi) the relationship between the Center and other relevant United States Government entities and initiatives, including the National Targeting Center and Terrorist Screening Center;
- (vii) the development or adoption, as appropriate, of relevant processes, procedures, and practices needed to ensure compliance with applicable law and policy and to appropriately protect privacy, civil rights, and civil liberties, as well as sources and methods; and
- (viii) a projected schedule to reach both initial and full operational capability.

(h) Within 180 days of approval by the President of this implementation plan and every 180 days thereafter until its execution is complete, the Secretary of State, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, the Director of National Intelligence, and the Director of the Central Intelligence Agency, in coordination with the Director of the Office of Management and Budget, shall, through the Assistant to the President for Homeland Security and Counterterrorism and using the NSPM-4 process, jointly submit to the President a report detailing the efforts made to execute this memorandum and the implementation plan.

Sec. 3. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
- (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

8.3 (U) NVGB Charter

National Vetting Governance Board Charter

The National Vetting Governance Board (NVGB, or Board) is established pursuant to National Security Presidential Memorandum (NSPM)-9, "Optimizing the Use of Federal Government Information in Support of the National Vetting Enterprise."

Section 1. Purpose.

The National Vetting Governance Board will serve as the senior interagency forum to provide guidance to the national vetting enterprise and oversight and guidance to the National Vetting Center (NVC). The Board will consider policy, operational, and resource issues that affect the national vetting enterprise and the activities of the NVC and its intelligence support element.¹²

Section 2. Responsibilities.

The Board will:

- (a) Consider, adopt, and issue appropriate guidance for departments and agencies (hereinafter, "agencies") involved in conducting or supporting vetting activities to enable the successful execution of the national vetting enterprise.
- (b) Ensure and oversee the effective coordination among agencies conducting or providing support for the national vetting enterprise, including through the NVC, and those agencies responsible for making adjudicative determinations and operational decisions.
- (c) Review existing U.S. Government processes, practices, and activities within the national vetting enterprise to recommend modifications and to propose new processes, practices, or activities as appropriate.
- (d) Review, approve, and prioritize vetting activities within the national vetting enterprise for specific purposes and the methodology used to conduct such vetting, in support of the national vetting enterprise; and provide direction to the NVC to implement vetting activities as appropriate.

¹² The national vetting enterprise consists of the coordinated efforts of agencies to both (a) collect, store, share, disseminate, and use accurate and timely biographic, biometric, and contextual information in support of immigration enforcement and border security, including with respect to individuals who (i) seek a visa, a visa waiver, or other immigration benefit, or a protected status; (ii) attempt to enter the United States; or (iii) are subject to an immigration removal proceeding; and (b) process biographic, biometric, and contextual information, including on a recurrent basis, so as to identify activities, associations with known or suspected threat actors, and other relevant indicators that inform adjudications and determinations related to national security, border security, homeland security, or public safety.

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- (e) Review and make recommendations for personnel and non-personnel resource allocations to agencies providing direct support to the NVC.¹³
- (f) Establish:
- (i) A standing Legal Working Group;
 - (ii) A separate standing Privacy, Civil Rights, and Civil Liberties Working Group; and
 - (iii) Any additional standing or ad hoc working groups that the Board determines appropriate to facilitate the proper functioning of the national vetting enterprise.
- (g) Through the Legal Working Group, and in coordination with the appropriate legal representatives at relevant agencies, identify and review on an ongoing basis legal issues bearing on the national vetting enterprise, as appropriate, and propose for consideration additional legal authorities that may be necessary and appropriate for effective vetting.
- (h) Through the Privacy, Civil Rights, and Civil Liberties Working Group, and in coordination with the appropriate representatives at relevant agencies, review on an ongoing basis the activities of the national vetting enterprise to ensure they are being conducted in a manner that appropriately protects privacy, civil rights, and civil liberties, including by suggesting policies, practices, or procedures that would facilitate such protection.
- (i) Ensure the production of timely reports pursuant to Section 2(h) of NSPM-9, and thereafter as necessary, to the President through the Assistant to the President for Homeland Security and Counterterrorism and, further, ensure the National Security Council, through its staff, is apprised of Board activities and, as appropriate, invited to observe and inform the activities of the Board.
- (j) Coordinate with other governance bodies with responsibilities that relate to vetting.

Section 3. Membership and Operations.

- (a) The Board will consist of six senior executives—one each as designated by:
- The Secretary of State
 - The Secretary of Defense
 - The Attorney General
 - The Secretary of Homeland Security
 - The Director of National Intelligence
 - The Director of the Central Intelligence Agency

¹³ Per Section 2(e)(i) of NSPM-9, advice from the Board to the Director of National Intelligence regarding IC resources necessary to support the mission of the NVC shall be made through the IC Identity Intelligence Executive, who will consult with the IC Deputy Executive Committee.

- (b) In order to achieve the national security objectives of the national vetting enterprise, (i) the Board may invite heads of other agencies not already represented by a member of the Board to designate a senior executive to participate as required in the activities of the Board; and (ii) the Board or Board members may invite additional personnel engaged in the national vetting enterprise, as appropriate, to observe and advise the Board.
- (c) Members of the Board will have the authority on behalf of their respective organizations to concur or non-concur in the decision making of the Board; to commit their respective agencies to requirements of the NVC; and commit their respective agencies to participate in NVC functions as determined by the Board. Members will have sufficient authority and understanding to make strategic decisions regarding their agencies' areas of responsibility for conducting or supporting vetting operations and to make appropriate recommendations for the Board's consideration.
- (d) The members of the Board will select one member to serve as the Chair, with the selection rotating annually among the individuals designated from the Department of State, the DOJ, the Department of Homeland Security, and the Office of the Director of National Intelligence, except that the first Chair will be the member selected by the Department of Homeland Security. Subsequent Chairs will be determined by the Board. The Chair will be responsible for calling and preparing agendas for meetings of the Board, preparing and distributing minutes of Board meetings, ensuring the effective and timely implementation of Board decisions, leading and overseeing the production of reports from the Board, and communicating recommendations to other agencies, as necessary.
- (e) The Director of the NVC, the Identity Intelligence Executive within the Office of the Director of National Intelligence, a representative of the Privacy, Civil Rights, and Civil Liberties Working Group, and a representative of the Legal Working Group, in addition to any other individuals as determined by the Board, will have full access to meetings and matters related to the Board as *ex officio* members and may be asked by the Board to provide support as appropriate.
- (f) The Director of the NVC will make regular reports to the Board concerning the ongoing activities of the Center, make recommendations as appropriate, and raise issues for consideration and decision by the Board. The Director will coordinate with the Chair to provide NVC staff to support the Board's activities, including administrative support to the Board as its executive secretariat, with additional support as needed to be provided by the agency represented by the Chair.
- (g) In order to carry out its responsibilities, the Board will meet on an as-needed basis, but not less than quarterly, or otherwise as determined by the Chair, or upon the written request of a Board member.
- (h) The Board will endeavor to reach consensus on all matters presented to it, including the scope of the Center's activities. Disagreements among Board members can be raised for resolution up to and including the heads of the agencies of the disagreeing parties. If the Board cannot ultimately resolve issues by consensus, it will refer matters to the staff of the National Security Council for consideration, consistent with National Security

Presidential Memorandum-4 of April 4, 2017 (Organization of the National Security Council, the Homeland Security Council, and Subcommittees) or any successor document.

Section 4. Effective Dates.

- (a) The National Vetting Governance Board is effective on the appointment of all members of the Board, pursuant to Section 3(a).
- (b) This Charter is effective upon its approval by the six officials designated pursuant to Section 3(a).
- (c) This Charter will be reviewed and re-validated at least every five years with any such changes as may be unanimously adopted.

This Charter establishes an internal governance process for the execution of United States government policy. It does not create or confer any privilege, right, or benefit, substantive or procedural, enforceable by any third party against the signatories, the United States Government, or the officers, employees, agents, or associated personnel thereof. Nothing in this Charter is intended to restrict the authority of any participant to act as provided by law, statute, or regulation, or to restrict any party from administering or enforcing any laws within its authority or jurisdiction.

All activities undertaken pursuant to this Charter are to be conducted in a manner that is consistent with the Constitution; Executive Order 12333 of December 4, 1981 (United States Intelligence Activities), as amended; other applicable law and Presidential guidance; and policies and procedures pertaining to: (i) the appropriate handling of information about United States persons (as defined in Executive Order 12333) and other individuals protected by United States law; (ii) the protection of sources, methods, and activities; (iii) privacy, civil rights, and civil liberties; and (iv) the protection of other sensitive information.