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**CERTIFICATE OF SERVICE**  
Civil Action No. 1:17-00998-ESH

I HEREBY CERTIFY that on this 14th day of March, 2019, a true copy of the foregoing was filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing via e-mail to the following:

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# Attachment



**UNDER SECRETARY OF DEFENSE**  
4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000

**INFO MEMO**

FOR: DEPUTY SECRETARY OF DEFENSE

FROM: Peter Levine, Acting Under Secretary of Defense (Personnel and Readiness)

SUBJECT: Military Accessions Vital to the National Interest (MAVNI) Pilot Program—  
Extension through September 30, 2017

Since 2009, the Services have used the MAVNI Pilot Program to enlist more than 10,000 non-U.S. citizens, each of whom is required to be in a legal status in specified immigration categories (e.g., holding a student visa or a refugee), with critical skills (presently limited to experts in certain languages with associated cultural backgrounds, and health care professionals). Upon serving a single day on active duty in the force, MAVNI enlistees become eligible for citizenship. Since 2015, individuals as to whom the Department of Homeland Security had “deferred action”<sup>1</sup>, and who otherwise meet the MAVNI criteria, also have been eligible to enlist under the MAVNI Pilot Program.

The Army is the predominant user of the pilot program and the primary source of concerns that have recently arisen about program execution and oversight.

A September 2016 internal review revealed that some MAVNI enlistees had been permitted to enter the force without completed background checks and that the Services had done an inadequate job of tracking MAVNI enlistees post-accession, as required by existing policy. The review also showed that some enlistees may pose a counterintelligence (CI) security threat. A DoD Inspector General report, scheduled for release in Spring 2017, is expected to confirm these concerns and detail irregularities in program execution.

Continuation of the MAVNI Pilot Program is dependent on periodic review and renewal by the USD(P&R). Concurrent with my receipt of a briefing on the results of the internal review, I was advised that program authorization for the current Pilot Program, which had proven of great value to the Services over time, was slated to expire on September 30, 2016.

Accordingly, I worked in close cooperation with OUSD(I) and DoD OGC to develop and implement appropriate new measures to address the security and execution concerns of which I had been made aware. After extensive consultation with USD(I) and DoDGC, I extended the MAVNI Pilot Program through September 30, 2017, subject to markedly enhanced program eligibility, security, and suitability requirements, as outlined below.

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<sup>1</sup> In 2012, the Department of Homeland Security established the Deferred Action on Childhood Arrivals (DACA) program. Pursuant to this program, individuals who entered the country before their 16<sup>th</sup> birthday and before June 2007 may apply for, and receive, a renewable two-year work permit and exemption from deportation. DACA status confers non-immigrant legal status, but does not provide a path to citizenship.

### Constraints on Accessions

- *Limit FY17 MAVNI Accession Allocations.* In consultation with the Army, I reduced the Army allocation from 5000 in FY16 to only 1200 in FY17. I maintained the Air Force at 70 allocations and the Navy and Marine Corps at 65 allocations each. No later than November 30, 2016, each Service must submit a report to OUSD(P&R) and OUSD(I), detailing its methodology for determining its critical manpower requirements targeted for enlistment via MAVNI and subsequent MAVNI allocation requests, with the understanding that I may further adjust FY17 MAVNI allocations as a result. My intent is to ensure that MAVNI accession allocations are based on appropriate manpower requirements analysis.
- *Remove Four Languages from the List of those Eligible for MAVNI.* Effective on my renewal of the MAVNI Pilot Program on September 30, 2016, Chinese, Korean, Persian (Farsi and Dari), and Russian speakers/cultural experts are no longer eligible for MAVNI enlistment. I implemented this constraint because the CI concerns resulting from the internal review focused predominantly on persons with these particular language and cultural capabilities.
- *Limit the Number of Annual MAVNI Accessions and Reserve Component Accessions for any one Language/Culture.* Going forward, no single language/cultural capability may comprise more than 10% of a Service's total MAVNI allocation. Like limits apply to Reserve Component MAVNI accessions based on language/culture. I implemented these constraints because analysis revealed a distinct imbalance in the number of MAVNI enlistees with particular language and culture skills.
- *Require each MAVNI Enlistee to Maintain a Valid Immigration Status or to obtain DACA Status while awaiting background investigation prior to shipping to basic training.* MAVNI personnel whose legal immigration or DACA status is lost or expires, are at risk of deportation and are no longer eligible for the MAVNI program. We do not appear to have been appropriately rigorous in enforcing this requirement.

### Enhanced Screening Requirements

- *New Tiered and Sequenced MAVNI Applicant Vetting Process.* I have directed the implementation of a new tiered and sequenced vetting process grounded in the nexus between the new list of languages/cultural expertise approved for MAVNI accession and OUSD(I)'s risk assessment. My intent in implementing this new vetting process is to mitigate the CI risks inherent in accessing any member of a non-citizen population into the Armed Forces.
  - **New:** MAVNI applicants with language/cultural expertise deemed by OUSD(I) to pose high CI risk must complete a Tier 5 national security investigation (Single Scope Background Investigation, or SSBI) and be deemed suitable for military service; applicants in all other languages/cultural experts and health care professionals must complete a Tier 3 investigation (National Agency Check with Local Agency Check and Credit Check (NACLC)) and be deemed suitable for military service.
  - **New:** All MAVNI enlistees must be subject to a DoD National Intelligence Agency Check (NIAC), which incorporates the screening of seven intelligence databases in addition to the screenings required for a NACLC.
  - **New:** All MAVNI enlistees must successfully complete a CI focused interview. If derogatory information cannot be mitigated, the enlistee must submit to and pass a polygraph examination.

- It has long been a requirement of the MAVNI Pilot Program that each Service must execute comprehensive, continuous monitoring of each MAVNI enlistee, annually across the enlistee's entire period of military service. The Services will be required to certify that they are in compliance with this requirement before they may access MAVNI applicants with language/cultural expertise deemed by OUSD(I) to pose high CI risk.

#### **Impact of these Changes on the MAVNI Program**

- Recent changes to the OPM background check and vetting program have resulted in long, complex, and costly processes, particularly for higher tiered background investigations and vetting.
- Notwithstanding the significant OPM backlog of investigations, I expect the Air Force, Navy, and Marine Corps MAVNI programs to continue without significant impact.
- However, in light of the increased vetting requirements described above, additional requirements under consideration by the Army, and the ~4,000 Army MAVNI's already in the DEP awaiting screening, I anticipate that few Army MAVNI's other than those currently in the DEP will be accessed for military service in FY17.