**U.S. Citizenship
and Immigration
Services**

Questions and Answers

USCIS Office of Transformation Coordination – American Immigration Lawyers Association (AILA) Liaison Meeting

August 22, 2011

Overview

On August 22, 2011, the USCIS Office of Transformation Coordination hosted an engagement with AILA representatives. The information below provides a review of the questions solicited by AILA and the responses provided by USCIS.

Questions & Answers

Question 1: Please share with us information about the proposed Transformation rollout schedule. While we are aware that USCIS is planning to unveil the new electronic portal in December 2011, could you please provide us with details on what we can expect thereafter? More specifically, can you share details about what forms or processes will be handled by the electronic system and when those functions are expected to become available?

> **USCIS Response:** In December 2011, USCIS will launch the first phase of Transformation. This first phase will introduce initial customer and attorney/accredited representative accounts and core case management capabilities for certain Applications to Extend/Change Nonimmigrant Status (Form I-539). The second phase of Transformation is planned to launch in mid-2012, with additional phases launching approximately every six months thereafter. The additional phases will complete the nonimmigrant benefits types, followed by the immigrant benefit types, humanitarian benefit types (such as Asylum and Refugee Status), and wrap up with naturalization and other citizenship benefit types. Additional features and functionality, such as organizational accounts, will also be included in the additional phases.

Question 2: Law firms, corporations, universities, and community-based organizations rely on sophisticated Immigration Program Management Systems to track immigration processes for an increasing number of visa applicants and beneficiaries. AILA wishes to reiterate that a transformed system that does not have direct "handshake" capability with programs and

systems of USCIS's heaviest users will result in exceedingly burdensome and costly processing for large scale users, whether they are seeking family benefits or employment-based benefits. Please provide an update on USCIS's efforts to expedite the issuance of External Data Interface Standards (EDIS).

a. What USCIS forms are expected to be part of the electronic portal prior to the publication of the EDIS guidelines?

> **USCIS Response:** The capability of allowing third party systems to securely transfer digital immigration benefit request data directly to USCIS, also known as EDIS, will not be available during the initial phases of Transformation. These phases are expected to cover certain benefit types, including: Applicant to Extend/Change Nonimmigrant Status (Form I-539), Application for Temporary Protected Status (Form I-821), Application for Employment Authorization (I-765), and Application for Travel Document (Form I-131).

b. In an earlier EDIS collaboration session, USCIS indicated that EDIS draft standards could be published sometime in mid-2010 with system testing in 2011, and implementation in fall 2011. Can you provide an updated timeline?

> **USCIS Response:** EDIS is currently planned for later phases of Transformation. USCIS has not yet finalized an updated timeline for when EDIS will be incorporated into these future phases.

c. The most recent EDIS collaboration session was held in September 2010. When do you expect to next engage stakeholders on EDIS-related issues?

> **USCIS Response:** The collaboration sessions will reconvene sometime next calendar year. In the meantime, the EDIS bulletin, which is emailed out quarterly to interested stakeholders and posted on the USCIS website, will keep you apprised of EDIS-related information.

Question 3: AILA commends USCIS for its decision to continue the use of the paper-based Form I-539 and to make initial use of the electronic portal optional. At the same time, we would appreciate USCIS's comments on whether it envisions mandatory e-filing of Form I-539 or other forms in the foreseeable future. If so, when do you think that will occur, and what measures is USCIS installing to ensure that users of limited means and others for whom electronic filing would be challenging are not foreclosed from interacting with USCIS? As AILA has earlier noted, our concern is that there remains a significant population that: A) May not be computer savvy; B) May not have practical access to the Internet or a computer, and; C) May not hold a credit card or have practical access to electronic banking and payment tools.

> **USCIS Response:** As you know, USCIS has been working toward moving away from a paper-based system. Our first step will be the initial deployment of the Integrated Operating Environment (IOE). This initial release of the IOE will be limited to those requesting:
> - An extension of status as a: B-1, B-2, F-1, M-1 or M-2

- A change of status to: B-1, B-2, F-1, F-2, J-1, J-2, M-1 or M-2
- A reinstatement of status to: F-1, F-2, M-1 or M-2

When Transformation deploys in December 2011, customers will continue to have the option of filing the paper Form I-539 for processing in legacy systems. At this time, USCIS does not have target dates for when it plans to transition to mandatory e-filing. USCIS recognizes that mandatory e-filing may pose challenges to individuals with limited computer proficiency, those who lack access to the Internet/computer and those who may not have practical access to electronic banking and payment tools. To that end, USCIS will continue to engage with customers and stakeholders on the topic of mandatory e-filing, and information gathered will inform the decision on timing the transition of benefit types to mandatory e-filing.

USCIS will announce its plan to transition benefit types to mandatory e-filing through a Notice of Proposed Rulemaking.

Question 4: Please comment on what aspects of Transformation will (or will not) require notice and comment rulemaking pursuant to the Administrative Procedure Act. If further rulemaking is anticipated, can you please provide a tentative schedule of what we may expect?

USCIS Response: In addition to the proposed rule planned for mandatory e-filing, USCIS anticipates two rulemakings relating to Transformation.

This fall, USCIS will be publishing a final rule with request for comments that provides for electronic service of routine and personal service of decisions and notices as an option for customers. This rule also removes a wide range of obstacles for benefit adjudication in an electronic environment, including: adjudicative jurisdiction, manual processing of benefit requests, and submission and handling of paper forms and documents. Finally, this rule will remove references to paper forms, filing locations, and internal procedures and replace them with terms applicable for use in an electronic environment.

In summer 2012, USCIS plans to publish a second final rule with request for comments that will expand adjudicative jurisdiction for the electronic environment.

Question 5: Please comment on what type of beta testing of the electronic portal has been completed, and what additional user testing is expected. Have external USCIS stakeholders such as attorneys, applicants, congressional offices, or Designated School Officials been engaged in the design or testing of the system? How can we ensure that AILA is engaged in this process? If stakeholders are interested in acting in a beta test capacity, is there a means by which this interest can be communicated to USCIS?

USCIS Response: USCIS plans to conduct user acceptance testing in Fall 2011. In addition, USCIS has engaged extensively with community-based organizations, attorneys, and members of the public through Office of Public Engagement (OPE)-led focus groups to help define the requirements of the new system. USCIS plans to continue such engagements throughout all phases of Transformation.

Question 6: Does USCIS anticipate having agency resources available for assistance with technical problems or questions that users may encounter in using the electronic portal? How will this user support be made available, and what efforts have been made to ensure that helpdesk personnel have been trained to deal with anticipated issues?

> **USCIS Response:** USCIS will be making agency resources available to assist customers with technical problems of other questions relating to the new electronic environment both on the phone and in person. Specific training for these personnel is currently being developed, and will be delivered before Transformation deploys in December 2011.

Question 7: If the electronic system is down for any reason or if a technical issue prevents a person from filing by a deadline, what procedures will be established to ensure people are not punished or disadvantaged as a result of a system problem? For instance, if there is a system outage that prevents the timely filing of an I-539 during the initial rollout, will USCIS accept a late filing and deem that filing timely? How will users be able to document a system problem that prevented them from filing timely?

> **USCIS Response:** USCIS is currently reviewing several contingency plans to ensure that customers are not negatively impacted as a result of system problems. Concrete plans will be in place by the December 2011 deployment date.

Question 8: USCIS has previously explained the need to use two-factor authentication, which requires users to present two different means to establish that they are who they say they are. It has been our experience, however, that USCIS has also previously required users to employ passwords that are more complex and expire more frequently than those used by other sites, including those used by financial service providers and others who deal with highly sensitive "personally identifiable" information. Can you provide information on how a user will need to authenticate their identity, and comment on what password protocols the new system will require?

> **USCIS Response:** Per DHS 4300A policy, the following password and two-factor authentication functionality must be configured into all USCIS information systems. Therefore the electronic environment users will need to comply with the authentication requirements to access the system.
>
> The new system will use two-factor authentication. The first factor is their username and password. The second factor is one of the following options: (1) challenge questions (2) PIN sent via e-mail (3) PIN sent via telephone (voice or text).
>
> Passwords shall:
> - Be changed or expire in 90 days.
> - Be at least 8 characters in length.
> - Contain a combination of alphabetic, numeric, and special characters.
> - Not be the same as the previous 8 passwords.
> - Passwords shall not contain any dictionary word in any language.

- Passwords shall not contain any proper noun or the name of any person, pet, child, or fictional character. Passwords shall not contain any employee serial number, Social Security number, birth date, phone number, or any information that could be readily guessed about the creator of the password.
- Passwords shall not contain any simple pattern of letters or numbers, such as "qwerty", or "xyz123".
- Passwords shall not be any word, noun, or name spelled backwards or appended with a single digit or with a two-digit "year" string, such as 98xyz123.

Question 9: At the Transformation stakeholder engagement held on July 27, 2011, a question was raised about the process for an attorney to prepare and file an application on behalf of a client (AILA Doc. No. 11071432).[1] As described by USCIS, the process appears to require multiple back-and-forth interactions between attorney and client. Our understanding of the process is as follows:

a) Attorney sets up account;
b) Attorney sends client a paper Form G-28;
c) Client signs the paper G-28;
d) Attorney or client scans the G-28, saves it somewhere for uploading, goes back into the USCIS portal, and then uploads the G-28;
e) Attorney gives client a USCIS portal access code;
f) Client sets up account;
g) Attorney prepares "form" online;
h) Attorney tells client the form is ready for review;
i) Client reviews and electronically "signs" or "submits" the prepared application;
j) Client informs attorney that application has been reviewed;
k) Attorney pays filing fees.

a. Can you please confirm if AILA's understanding of the process is accurate, or explain how the process is envisioned by USCIS to occur? Assuming a handwritten signature from the client (and attorney) will still be required, AILA is concerned that this seems to defeat the purpose of moving to an electronic system, rather than paper-based, system at the end-user level. A useful contrast is the Department of Labor's PERM labor certification system, which allows an attorney to file an application on a client's behalf once an account is created without the need for a paper-based representation agreement. That system provides automatic notification to the client of filings and an automated system to confirm that applicants intended for applications to be filed on their behalf.

> **USCIS Response:** After an attorney or accredited representative (representative) business account has been created, USCIS envisions the following process for an attorney or accredited representative to submit a benefit request on behalf of a client:

---

[1] USCIS Transformation: December 2011 Deployment of the New Electronic System, AILA InfoNet Doc. No. 11071432, http://www.aila.org/content/default.aspx?docid=36168

STEP 1: The representative logs into the electronic environment and completes a benefit request on behalf of a client. This benefit request also facilitates the retention of the attorney or accredited representative.

STEP 2: After completing the online benefit request, the representative and client review the responses provided. The representative can also print out the completed benefit request for the client to carefully review.

STEP 3: If the client determines that the information contained in the benefit is correct, he or she must physically sign the benefit request. If your client needs to change or edit any part of his or her benefit request, the attorney or client can return to any portion of the document by selecting an action tab on the left-hand side. NOTE: If you make edits directly to the benefit request, these edits will not be considered part of the application. The attorney and client should thoroughly review the benefit request again before final submission of the benefit request.

STEP 4: After scanning and uploading the physically-signed benefit request and any other supporting evidence, the representative submits the benefit request.

STEP 5: The filing of the benefit request automatically creates an "inferred" account for the client. The client cannot access this account, but USCIS retains an internal record. When the client files a new benefit request, the inferred account is converted to an active account for the client. The client will receive a notice from USCIS informing them how to set up their own user account.

STEP 6: The representative is directed to submit payment electronically through Pay.gov for processing online.

Note however, if an unrepresented benefit seeker submits a benefit request and then later retains the services of a representative, the representative can create an account in the electronic environment and mail in the Form G-28, Notice of Entry of Appearance as Attorney or Accredited Representative with the client's signature affixed. Alternatively, the client could mail in the G-28 and USCIS would infer an account for the representative. The representative would then establish an account after he or she received an "Online Access Code" notice from USCIS. These actions would result in the benefit seeker's request being attached to the representative's account.

In future releases, the electronic environment will have functionality that eliminates the requirement that the client physically sign the document. All review, validation, and signatures will take place electronically.

Also, if a client in the above scenario already holds a pre-existing electronic environment account, the system will send the client a notice advising him or her that a benefit request has been submitted on his or her behalf.

b. Is there any reason the client could not simply send the signed G-28 (via snail mail or scanned format) to the attorney to upload?

> **USCIS Response:** This is potential solution is still being discussed by our development teams.

c. Is the "submit" button pressed by the attorney or the client? Or is the payment of the filing fee (by the attorney) the functional equivalent of hitting a submit button?

> **USCIS Response:** For the above scenario, the representative will be the person who submits the benefit request and the payment directly after completing the benefit request with their client. The payment has to be made electronically at the same time as the submission of the benefit request.

Question 10: In cases where a petitioner, applicant, and/or lawyer is submitting a USCIS petition or application from outside the U.S., will the fee payment mechanism employed by USCIS for the new portal allow the use of credit cards issued outside the U.S. or those with a non-U.S. billing address? This is not possible using USCIS's current e-filing tool.

> **USCIS Response:** The fee payment mechanism employed by USCIS for the new system will allow the use of major credit cards from outside of the U.S. and for payment by those with a non-U.S. billing address.

Question 11: Will non-U.S. addresses and postal codes be permitted in the new portal? For example, the current e-filing tool does not permit Canadian addresses to be entered on the G-28, and it appears to only accept postal codes that are in the "U.S.-style" 5-digit numeric format.

> **USCIS Response:** A U.S. address is not required to set up the portal account. The user will need a valid e-mail address to get his/her User ID and Password. However, to establish the immigration account and submit the benefit request in the first release, the applicant, attorney, or authorized representative must insert a physical U.S. address or a U.S postal code on the form I-539.

Question 12: Will the electronic portal be available in languages other than English?

> **USCIS Response:** At this time, the system will be available in English only.

Question 13: Will the electronic portal change the way I-797 notices are issued? Will they continue to be issued in printed, hard copy format? If so, will notices continue to be sent to the attorney, with a courtesy copy to the petitioner or applicant? Similarly, will such notices continue to be mailed to addresses outside the U.S.? In the alternative, will the new system allow notices to be downloaded and printed electronically?

> **USCIS Response:** The customer will have the option to receive communications via paper notices or e-mail notifications. No matter which option the customer selects, the

updates will still be sent to both the attorney and applicant/petitioner. The customer will be able to download and print out various notices.

Question 14: Please describe how an electronically filed I-539 will get to the desk of the Adjudication Officer who actually will process the application? Will it be done electronically, or will there be personnel who will route the applications and distribute the work? How will it be possible to check to see if something fell through the cracks?

> **USCIS Response:** The electronically filed I-539 goes into an electronic work queue. The officer will either get work by downloading the next available case in the work queue or by getting assigned work from a supervisor.
>
> Robust reporting tools will ensure that work is carefully monitored and cases do not "fall through the cracks." In addition, customers and attorneys will be able to track the status of their cases on line, as well as make case status inquiries through the 1-800 number.

Question 15: If an applicant does not have the capability to copy, create a PDF file, and upload documents at the time of filing, will there be an option to send documents by mail supporting later on? If so, when will such application be considered filed?

> **USCIS Response:** USCIS will not accept paper evidence for applications filed within the electronic environment; evidence that supports a case filed in the electronic environment must be scanned and submitted online.

Question 16: Can an applicant borrow someone else's computer, or file from a public place like a library, and/or "borrow" someone's e-mail address or "in care of" address to file an application, without triggering some sort of security concern?

> **USCIS Response:** Customers may use another person's computer to complete an online application; however, customers should never borrow someone's account or online access information, such as an e-mail address, password, and authentication questions, to establish an online account or file a benefit request. The electronic environment is meant to be a "one person, one account" system.

Question 17: How are UPIL concerns being addressed, i.e., a notario claiming to be able to "fix papers" by e-filing I-539s?

> **USCIS Response:** The new system's "wizard" technology will make the filing process clearer for an individual applicant, but as with our current, paper-based model for submitting immigration-benefit requests, educating individuals on how to avoid scams and encouraging communities to report scams are essential to combating the unauthorized practice of immigration law. USCIS Transformation works in close collaboration with the Unauthorized Practice of Immigration Law (UPIL) initiative, a multi-agency effort to combat the fraudulent practice of immigration law. See http://www.uscis.gov/avoidscams.

Question 18: AILA understands that the USCIS Transformation team is also working with partner agencies that are involved in the immigration process. Can you please confirm which other agencies are involved in the Transformation initiative? What is the timetable for sharing data from the electronic portal with other government agencies, and what data is expected to be shared with each respective agency? For instance:

- Will CBP have access to USCIS data, so that at a POE, PCO or Deferred Inspection there will be evidence of timely filed and pending applications/petitions?
- Will U.S. Consulates have access to USCIS data to see evidence of timely filed and pending applications/petitions?

> **USCIS Response:** The USCIS Transformation team is working with several partner agencies such as U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, Department of State, and Department of Labor. Much of the data sharing that takes place between USCIS and our partner agencies will happen automatically in the future. This data sharing is anticipated to begin in Release B of Transformation. USCIS also plans to provide our partner agencies with access to the new case management system.

Question 19: Are any USCIS or other government database systems expected to be eliminated as a result of Transformation? If so, which ones? Is there a timeframe for this?

> **USCIS Response:** No systems are expected to be eliminated as a result of the initial deployment of Transformation in December 2011. Over several years, however, dozens of current USCIS systems are expected to be decommissioned as a result of Transformation. These systems include the major case management systems currently used to track processing of nonimmigrant, immigrant, humanitarian and citizenship cases.