



# Questions and Answers

## USCIS Service Center Operations – American Immigration Lawyers Association (AILA) Teleconference

March 30, 2011

### Overview

On March 30, 2011, the USCIS Service Center Operations Directorate hosted an engagement with AILA representatives. USCIS discussed issues related to cancellations of F/J status in SEVIS based on H1B cap filings, RFEs based on the VIBE system, matching a newly filed I-140 petition to an already-filed and pending I-485, and a request to include a reason for interview on employment based application notices. The information below provides a review of the questions solicited by AILA and the responses provided by USCIS.

### Questions and Answers

**Question 1:** Members are reporting that SEVIS records for individuals with valid F/J status are being cancelled as a result of consular H-1B cap applications. Unfortunately the F/J visa holders are not informed of this cancellation by USCIS, and often do not find out until they are applying for an updated I-20 for travel or other purposes. It can take the SEVP office several weeks to resolve such issues. Would you please describe the steps that USCIS takes to avoid the records being cancelled when a consular notification H-1B petition is approved?

**Response:** We are aware that occasionally the SEVIS system is automatically cancelling student status when a change of status to H-1B is uploaded into CLAIMS. We are currently working with OIT personnel to resolve this issue.

**Question 2:** As a result of the implementation of VIBE, we are seeing a dramatic increase in RFEs stating that “VIBE has indicated missing or contradictory information...” The RFEs fail to specify what information is “missing” or “contradictory” and often request voluminous information - despite the submission of substantial information proving the petitioner’s existence and bona fides. Given that it is acknowledged that the Dunn & Bradstreet database does not always capture relevant information such as business name changes, address changes, and the like, or that it sometimes captures them well after the fact, is there a way to avoid these RFEs or at least reduce their frequency? Could the Service – for example - direct examiners to accept facially genuine evidence even if it does not comport with Dunn & Bradstreet and check State Secretary of State corporate registration information before generating an

RFE? Additionally, would SCOPS direct examiners to specify exactly what information is “missing” or “contradictory” in their RFEs to reduce the volume of documentation petitioners need to submit to address unspecified inadequacies?

**Response:** Officers have been instructed that the information contained in VIBE should be reviewed in conjunction with the evidence submitted with the petition. They have been trained to not rely solely on information found in VIBE. It is anticipated that VIBE will eventually reduce the frequency of RFEs as officers become more familiar with the system.

Officers are required to specifically state the issue found in VIBE that is problematic, derogatory, or contradictory. For example:

- *If VIBE could not find a match for the company, we state:*  
The information you provided about your company/organization’s name and address is insufficient for USCIS to match your company/organization to information in USCIS’s VIBE.
- *If VIBE indicates that the company is an inactive business, we state:*  
USCIS’s VIBE indicates that your company/organization is inactive and may be out of business.

SCOPS encourages all stakeholders to send specific examples of RFEs that are confusing or problematic to [VIBE-Feedback@dhs.gov](mailto:VIBE-Feedback@dhs.gov). SCOPS continues to work with the centers in the RFE working group and will make modifications, if necessary.

**Question 3:** AILA members report problems matching a newly filed I-140 petition to an already-filed and pending I-485, e.g., in order to change a case from EB-3 to EB-2 or to change a case from an employment based to a family filing. In several instances, members have been advised verbally by the NSC that although it is allowable to match a new I-130 or I-140 to an existing I-485, it is logistically difficult, and it is quicker for the client to submit a new adjustment application with the new petition. Given that matching a new petition to an existing I-485 is permitted under Section 23.2(1) of the AFM could SCOPS remind the field that this is a permissible procedure and look into improving the process for matching these petitions to the I-485?

**Response:** The Service Centers are aware that Section 23.2(1) of the AFM allows for the matching of a new petition to an already pending I-485. However, our current systems make this difficult in the event the petitioner or representative does not provide sufficient information with the new petition to identify the pending I-485. Currently, I-130 and I-140 petitions are tracked by receipt number only, whereas I-485s are tracked by A-number and receipt number, meaning it is difficult to identify a newly filed petition as pertaining to the beneficiary of an already pending or approved petition and a pending I-485. Therefore, if the A-number or the receipt number of the I-485 is not provided with the newly filed petition, and if the petitioner/attorney of record does not alert USCIS to the fact that there is a previously filed petition/I-485, we may not be able to discover that fact through current systems checks. We believe Transformation, with its emphasis on person-centric customer accounts, will solve this problem. An IT fix in advance of Transformation is unlikely. In the meantime, AILA members should make reference, e.g., via a cover letter, in the new filing to the previously filed petition and adjustment application. They should include the location where the adjustment application is pending, as well as the A-number and receipt number associated with the adjustment application. SCOPS will be following up with the Customer Service Directorate to make sure that the NCSC is also providing this instruction to callers.

**Question 4:** Is there an update on the prior question of whether it is possible to include something with the interview notice for employment based cases which indicates the reason for the interview?

**Response:** USCIS does not plan to issue interview appointment notices for employment-based cases that include a reason for the interview request.