



May 23, 2011

# Executive Summary

## USCIS Transformation: Proposed Rule for Mandatory E-Filing

### Background

On April 8, 2011, the Office of Transformation Coordination (OTC) and the Office of Public Engagement (OPE) hosted a stakeholder engagement to discuss the development of a proposed rule that would mandate electronic filing, or e-filing. During the session, USCIS representatives provided an overview of the transformation initiative and discussed the purpose and objectives of requiring applications and petitions be electronically filed as well as addressed questions and concerns from stakeholders.

### Overview

Director Mayorkas opened the meeting by stating that over the last several years, USCIS has been working toward moving from a paper-based to an electronic, account-based case management system. Director Mayorkas indicated that, through ongoing engagement, USCIS has heard that many customers and stakeholders look forward to being able to file their benefit requests using a fully electronic process like those used by most businesses and government agencies today. In addition, USCIS believes that the electronic system would allow USCIS to accomplish its mission more efficiently and effectively. Therefore, as part of its transformation initiative, USCIS is considering requiring that applications and petitions be electronically filed with USCIS.

Mariela Melero, Chief of OPE, explained that USCIS is developing a proposed rule that would mandate electronic filing, or e-filing. E-filing would be mandated following a notice and comment rulemaking process which would include the following steps:

- to publish a proposed rule that would require e-filing,
- to receive public comments about that rule,
- to review and consider the suggestions made by the public,
- to publish a final rule which responds to the public comments.

Ms. Melero further indicated that, while the agency believes that most USCIS customers and stakeholders will be very thankful for the chance to e-file their requests, the agency also understands that e-filing might not work well for everyone, especially given the diverse range of individuals and entities with which the agency interacts. Therefore, the purpose of this engagement was to receive individual stakeholder input on the specific impacts of mandatory e-filing and transition time and resources needed to be able to e-file.

Gerri Ratliff, Chief of OTC, then provided a general overview of the transformation initiative. Ms. Ratliff stated that the first release of the new online system would likely deploy in December 2011. The new

system will introduce customer accounts for individuals seeking immigration benefits. The first benefit will available for filing through the online system will be the stand-alone Form I-539, *Application to Extend/Change Nonimmigrant Status*.

Ms. Ratliff explained that one of the many purposes of the transformation initiative is to provide enhanced customer service. This initiative will allow applicants to submit information and manage their benefit requests while also enabling USCIS to access all available information about a customer in a single, online location and to streamline procedures for managing information.

### **Impacts on Specific Populations or Entities**

Stakeholders provided feedback on the positive and negatives impacts that mandatory e-filing would have on different populations or entities. This included identification of specific populations as well as specific benefit request types that may or may not be easily incorporated into an electronic filing environment.

Some stakeholders were apprehensive about specific populations being able to utilize the new system. Populations for which concerns were expressed included:

- elderly
- illiterate populations (in any language)
- applicants without bank accounts or credit cards
- rural communities

Generally, stakeholder concerns about mandatory e-filing involved access to technology and language limitations. An additional concern for certain populations is general computer literacy. Some participants worried that vulnerable populations, such as those listed above, would be victim of unauthorized practice of immigration law (UPIL), including unscrupulous fees, poor/inaccurate service, and security infractions.

One participant suggested mapping community-based organizations (CBOs) in the U.S. to identify areas in the country that lack CBOs. From the mapping exercise, USCIS would be able to recognize places where individuals would likely be using a public library and thus provide additional support to the libraries in these areas. Other stakeholders identified limitations of public libraries such as limited hours, restrictions on how long someone can be on a library computer; and security of data.

Some university or higher education representatives indicated that they would also be concerned about student populations using the online system and being required to have biometrics and photos taken at USCIS Application Support Centers (ASC). USCIS stated that some applications that require biometrics will be included in the second release of the new system and that the system will have capabilities to allow applicants to reschedule and change the locations of appointments at the ASCs.

### **Impact by Benefit Type**

Some participants expressed concern that there are specific benefit types that cannot be easily e-filed or mandated to e-file. For example, some stakeholders suggested that applicants filing for humanitarian benefits are oftentimes are living in shelters, hotels, and other temporary housing situations and frequently do not have access to the required technology. In addition, some participants worried that certain benefit requests, such as T, U, and VAWA and EB-5 cases, require significant amounts of documentation and evidence which would make it extremely difficult to file electronically.

## **Assistance Needed to Transition to E-filing**

USCIS expressed interest in hearing from stakeholders what their organizations and clients would need to successfully transition to e-filing. Two suggestions included USCIS-provided technological resources (i.e. computers, scanners, internet connections) and grants. Some stakeholders indicated that, in some locations, technological resources are not easy to find and that some individuals do not have the computer literacy skills needed to use the new system. Moreover, in certain rural areas, applicants would have to drive, take time off work, and go to public libraries or other organizations to complete a benefit request online. Because there would be time limitations and privacy issues, some stakeholders suggested that individuals would be more likely to use the services of notarios or other unauthorized practitioners. Therefore, some stakeholders suggested that USCIS have computer labs at field offices. This suggested form of assistance would provide applicants access to required technology and additional customer service support from USCIS. One participant stated that the computer labs would need to be available to individuals outside of business hours. Another stakeholder indicated that there would be some fear among the public about coming to USCIS offices to use computer labs.

Due to the possibility of public fear to utilize technology services inside USCIS field offices, some stakeholders suggested that USCIS provide financial assistance and training opportunities to community-based organizations. Financial assistance, in the form of grants, would allow CBOs to obtain technological resources as well as build capacity within their organizations. One stakeholder asked that USCIS invite CBOs and other external stakeholders to field offices to demonstrate the new system and provide additional training. USCIS stated that there are plans to have training demonstrations at the field offices as part of the initial and ongoing rollout of the system.

Additional suggestions from stakeholders included a CBO registry so that benefit seekers could locate local organizations that can assist them through the online application and case management process as well as a formal research study to determine populations likely/unlikely to adopt e-filing.

## **Transition Time to E-file**

Some participants thought that USCIS should allow for a significant transition period before mandating e-filing. Participants stated that there should be a long rollout period so that USCIS can manage system issues and errors and review voluntary e-file compliance rates of external users. Additionally, some legal representatives and attorneys indicated that e-filing cannot be made mandatory until there is the capability for independent case management systems to interface with the USCIS system. Moreover, some stakeholders suggested that they would need enough time to build resources and for certain applicant groups to become more computer savvy.

## **Exceptions to Mandatory E-filing**

USCIS stated that the agency was considering the inclusion of exceptions for mandatory e-filing in the rule. One participant offered that migrant farm workers should be a population that is exempt from mandatory e-filing because they have little to no access to technology and move frequently. Other stakeholders stated that the detained immigrant population might also present an applicant group that should be exempted from mandatory e-filing. Another participant indicated that applications that require substantial supporting evidence and documentation, such as asylum and adjustment of status applications, should be considered for exception. Finally, one participant expressed concern about time sensitive applications being required to e-file because there are oftentimes bars to filing late or untimely.

## General Questions

Throughout the engagement stakeholders asked questions about the new system. Specific queries concerned such matters as the login process, case management system interfaces, and payment options. Ms. Ratliff explained that in the first release, attorneys, BIA-accredited representatives, and individual applicants will have accounts. Individuals that are being represented by an attorney or BIA-accredited representative would have their account electronically linked to their representative. USCIS is also in the process of developing Electronic Data Interface Standards (EDIS) so that the third-party software vendors can modify current case management systems to support the new system. USCIS regularly interacts with external stakeholders on these and other aspects of the system. Ms. Ratliff also reinforced that many aspects of the system are yet to be determined and/or slated for later releases. Therefore, USCIS will continue to seek regular feedback from internal and external stakeholders on the programs and processes that will best work for them while at the same time meet DHS and federal government standards and regulations.

Additional information about the transformation initiative and a video of a prototype can be found on the USCIS website at [www.uscis.gov/transformation](http://www.uscis.gov/transformation). Over the coming months, USCIS will update the website to provide external stakeholders and applicants with the latest information and assist in preparing for the transition to the new electronic system.