

VSC Stakeholder Engagement
Unofficial Notes of the AILA/VSC Liaison Committee
May 6, 2011

1. **Opening Remarks**
Perry Rhew – AAO Chief

AAO hiring 18 new adjudicators by June – the AAO will be committing resources to 601s, I-140s, L-1s and H-1Bs to try to reduce processing times for those product lines

2. **TPS Update**
Tracy Parsons – Assistant Center Director managing TPS Section
VSC has sole jurisdiction for Central American and African countries.

Best Practices for TPS

- File Timely
- Use the name and A# that was on the last re-registration and EAD Card
- Fill out application completely
- Submit the biometric fee at the same time
- As soon as you have the IJ Grant, scan it in and send it to the designated VSC e-mail address:
tpsijgrant.vsc@uscis.dhs.gov, tpsijgrant.nsc@uscis.dhs.gov, tpsijgrant.csc@uscis.dhs.gov

NTA shall be issued with grounds for denial of TPS making individual removable from the U.S.

No I-821 approval notice will be issued because USCIS does not want an applicant to have duplicate evidence of their status. The approval is the EAD.

USCIS Secure Mail Project – We will start seeing LPR cards and EADs sent in secure mailers (AILA Doc. No. 11050231).¹

3. **Family Based Immigration Forum**
Michael Paul – Assistant Center Director
Carrie Selby – Assistant Center Director

Resources are being concentrated on I-129F K-1 cases and I-130 immediate relatives.

- **I-130s:** Currently processing 8,000/mo. USCIS expects the workload to increase up to 15,000/mo.
- **I-129s:** Currently processing 1,700 I-129Fs per month. CSC and VSC split the workload.

204(l) Death of a Qualifying Relative (AILA Doc. No. 11011061)² –

- Permits approval of FB & EB petitions, asylee & refugee cases, as well as T & U nonimmigrants
- Applies to pending and approved petitions
- The notification to VSC typically comes through customer service or consular returns
- **Cases denied before October 28, 2009:** USCIS allows person to file an untimely motion, but they must pay the fee.
- **Cases denied after October 28, 2009,** and without consideration of 204(l): USCIS will reopen on their own motion.

¹ *USCIS Announces Implementation of Secure Mail Initiative*, AILA Doc. No. 11050231, <http://www.aila.org/content/default.aspx?docid=35268>

² *USCIS Memo on the Approval of Petitions and Applications After the Death of the Qualifying Relative*, (AILA Doc. No. 11011061), <http://www.aila.org/content/default.aspx?docid=34098>

- **Humanitarian Reinstatement:** USCIS will consider to allow the beneficiary of an approved I-130 to continue the case if petitioner dies. 204(l) requires the beneficiary to reside in the U.S. at the time of the petitioner's death.

Consular Returns – They are currently not dedicating resources to these at the level that they have in the past.

Adam Walsh Act (AILA Doc. No. 11042766)³ – USCIS referred to the policy memo issued at the end of April with regard to centralization of service center cases with the VSC. USCIS has worked 300 cases since VSC began adjudicating these.

DOMA – USCIS is not holding these cases in abeyance, and the service may not recognize same-sex marriages for immigration cases ([AILA Doc. No. 11062433](#)).⁴ When these cases are denied, USCIS cites DOMA. However, using *Matter of Lovo*, some cases are approved – where the state recognizes the change of sex of a postoperative transsexual and where the state recognizes the marriage as a heterosexual marriage, USCIS could approve the case.

I-751 filings – There has been a jump of 3,000 more receipts per month; therefore, processing times will keep building until they are able to devote more resources to these petitions.

- **Late Filings** are being reviewed at the time of data entry and will be rejected if there is no excuse given for the late filing.
Tips:
 1. Don't late file, or
 2. Include a detailed explanation
- **Misclassified Cases:** Persons misclassified as conditional permanent residents who should not have to file the I-751 should identify the error and work with Field Operations regarding adjusting to the proper classification. USCIS will process for the correct card and return the fee. USCIS is trying to educate the field offices and CBP to ensure they are properly classifying individuals initially. Additionally, the applicant could file an I-90 requesting a fee waiver before the I-751 needs to be filed.
- **Linked Children:** Mark clearly on the form whether the children are linked and pay the extra biometric fee. Also, mark the form clearly if the children are not linkable to I-751 for abused spouse and children. Send in address changes in writing with the signature of the LPR. Do not use the AR-11 system, but send the change of address to VSC directly!
- **Filing I-751 while Divorce Pending:** File joint petition, and specify that the couple is in divorce proceedings. USCIS will send an RFE requesting a final divorce decree and asking for the maximum amount of time. A long-pending divorce is not the basis for a hardship waiver absent other considerations. You can also file on divorce and battered spouse grounds at the same time, and VSC will send an RFE if enough information is not offered to support one of the grounds.

Consular Returns:

- Processing Times:
 - I-129F – working on November 2010
 - I-130 – working on August 2010. (The processing times are not divided by Immediate Relative (IR) and Preference cases. VSC pulls the IR cases and gives them priority.)
- There are two checks performed on consular returns.
 - KCC – If KCC believes USCIS properly approved case, KCC will return to consulate.

³ AILA Doc. No. 11042766. , <http://www.aila.org/content/default.aspx?docid=35226>

⁴ *DHS Responds to AILA Regarding Treatment of Cases Impacted by DOMA*, AILA Doc. No. 11062433, <http://www.aila.org/content/default.aspx?docid=35991>

- VSC – Reviews file to see why approved first time and why it is being returned.

4. **Director's Remarks**

Dan Renaud

Staffing – 390 adjudicating officers. VSC is understaffed by about 90 individuals, 50 of which would be in immigration service officer ranks. VSC is in a hiring mode

Due to being understaffed, VSC is not taking on new I-601s from Mexico and deprioritization of certain I-751s and consular returns. VSC hopes this is only temporary.

Currently, VSC has 262,000 cases pending, and they have handled 1.2 million cases in the past 12 months.

VSC Goal: To be current for every case type they review or adjudicate.

5. **USCIS Transformation**

Gerri Ratliff – Chief – Office of Transformation

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A new case management system will be implemented in December

Features:

- Electronic Files
- Knowledge Sharing
- Electronic Information Management
- Risk and Fraud Support

December Release capabilities:

- Enriched customer experience with full account setup and account management
- E-filing for primary benefit seekers and dependents (including the submission of account data, case data and supporting evidence)
- Representative filing (G-28)
- Fee payment
- Electronic case management for processing benefit requests, including digitized evidence to support adjudication

The transformation video is on the [USCIS website](#).⁵

Feedback – transformationteam@dhs.gov

How will customers file?

1. Create user account
2. Enter application data
3. Submit application and payment online
4. Receive notification
5. Check case status
6. Manage submitted applications

6. **Nonimmigrant Forum**

Keith Canney – Assistant Center Director – H-1B, E-3, TN

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<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=b1161bf8d43ee210VgnVCM100000082ca60aRCRD&vgnnextchannel=b1161bf8d43ee210VgnVCM100000082ca60aRCRD>

Lisa Laroe – other nonimmigrant categories

Amended Petitions: Material change in terms and conditions of employment. USCIS comprehensive review policy will include a memo describing what they consider to be a “material change.”

Currently accepting 1/19/11 and 11/23/10 versions of the I-129 – other versions will lead to rejection.

Export Control: Must check one of the two boxes. DHS does have the ability to share the disclosures with the Commerce Department. Whether the Commerce Department can challenge the Petitioner’s assertion down the road is an open question. The question is broad in that it seems to cover placement at end-client locations and any technology/controlled data that may be provided to beneficiary by end-client. VSC has no answer to this.

VIBE: Used for all I-129 classifications except for O and P. It is not reviewed independently of evidence submitted. Contradictory information will lead to RFE issuance. USCIS updates the VIBE system when contradictory information is resolved. The Dun & Bradstreet “expedited” process for updating their database by paying an extra fee does not lead to USCIS databases being updated any quicker. Don’t pay!
For feedback on VIBE: VIBE-feedback@dhs.gov

I-612s to Waive Two-Year Foreign Residence Requirement: Still having issues with receipt issuance. One way to avoid problems is to include only one attorney name in the application.

H-1B Goal: 60 days. VSC is currently well within that goal. 100 cases remain from last FY caseload. Cap-exempt employers cannot seek a cap-subject H petition to try to get the petition reviewed by VSC. They will transfer these cases to CSC.

Consular Returns of Nonimmigrant Cases Current Goal: Six months. Currently working on 08/10. VSC is assigning four new adjudicators to these cases.

L-1 Goal: 30 days. VSC is outside of the 30 day target, but are shifting resources and allocating overtime. L-1Bs are part of the USCIS Director’s policy review.

RFE Review Avenue: scopsrfe@dhs.gov – Contact USCIS to report inconsistency between VSC and CSC or if you think the RFE is way off the mark.