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Office of Public Engagement
United States Citizenship and Immigration Services
20 Massachusetts Ave. NW
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Via e-mail: opefeedback@uscis.dhs.gov

Re: **AILA Comments on USCIS Draft Memorandum:
Revocation of VAWA-Based Self-Petitions (Forms I-360)
(AFM Update AD10-49)**

The American Immigration Lawyers Association (AILA) submits the following comments on the USCIS draft memorandum, “Revocation of VAWA-Based Self-Petitions (Forms I-360) (AFM Update AD10-49).”

AILA is a voluntary bar association of more than 11,000 attorneys and law professors practicing, researching and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to comment on this draft memorandum and believe that our members’ collective expertise provides experience that makes us qualified to offer views that will benefit the public and the government.

Introduction

AILA appreciates the opportunity to comment on the draft policy memorandum, “Revocation of VAWA-Based Self-Petitions (Forms I-360) (AFM Update AD10-49)” (draft memorandum). The draft memorandum reiterates the policy effected by the August 5, 2002 USCIS memo entitled “Revocation of VAWA-Based Self-Petitions (I-360s).”

1. Instructions Regarding the Scope of Adjustment of Status Interviews for Approved Self-Petitioners

As a preliminary matter, AILA recommends that the draft memorandum include instructions to field officers that questioning of VAWA-based

adjustment of status applicants be limited to factors bearing on adjustment eligibility. AILA members report that field officers routinely inquire into abuse and other issues that rest solely with the VAWA Unit and that were previously adjudicated during the I-360 review process. Because the I-360 has already been approved, such questions may be perceived as an attempt to find inconsistencies to support revocation of the I-360. Moreover, this type of questioning can cause significant trauma to the applicant who is forced to recount the incidents of abuse.

2. Definition of Independent Corroboration by Unrelated Sources

As set forth in the draft memorandum, any adverse information received by USCIS from a self-petitioner's abuser or family member of the abuser must be independently corroborated by an unrelated source before the Service may take action based on that information. AILA urges USCIS to more specifically define the term "unrelated source" by incorporating language that states that information provided by the abuser or others enumerated under IIRIRA §384 must be corroborated by a source who does not fall under any of the categories defined by the statute and who is not related to any of those persons defined by the statute. Moreover, if independent corroboration is obtained, the officer must explain in the revocation memorandum why the corroborating source is unbiased.

The draft memorandum should also reflect, pursuant to VAWA 2005, that parents of abusive sons and daughters are also eligible to self-petition. INA §204(a)(1)(A)(vii). Therefore, the language in the memorandum and in the AFM should be updated to reflect that officers are not to make adverse decisions based on information obtained from the self-petitioner's abusive spouse, parent *or son or daughter*.

3. Time Limitation on Revocation Decisions

AILA strongly urges that USCIS place a time limit on the decision to begin revocation proceedings following receipt of a Supervisory Immigration Service Officer (SISO) revocation memorandum. We believe that 90 days is a reasonable amount of time in which to make this decision.

4. Disclosure to Self-Petitioners

The draft memorandum should be amended to require USCIS to provide a copy of the SISO memorandum along with the Notice of Intent to Revoke (NOIR) if revocation proceedings are initiated. The SISO memorandum should be provided to apprise the self-petitioner of the new information and how it was obtained, so that he or she may effectively respond and assist USCIS in determining whether the information was properly obtained in accordance with the memorandum and other guidance.¹ This policy

¹ INS Memorandum, P. Virtue, "Non-Disclosure and Other Prohibitions Relating to Battered Aliens: IIRIRA §384," (May 5, 1997).

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also comports with 8 CFR §103.2(b)(16)(i), which permits an applicant or petitioner to inspect the record of proceeding which constitutes the basis for any decision.

5. Technical Correction

The memorandum refers to the legacy INS as the “Immigration and Nationality Service,” which should be corrected to read “Immigration and Naturalization Service.”

Conclusion

AILA appreciates the opportunity to comment on this draft memorandum and we look forward to a continued dialogue with USCIS on issues concerning this important matter.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION