U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of the Director (MS 2000)
Washington, DC 20529-2000

U.S. Citizenship and Immigration Services

December 15, 2010 **PM-602-0022**

Policy Memorandum

SUBJECT: Revocation of VAWA-Based Self-Petitions (Forms I-360); *AFM* Update AD10-49

Purpose
This Policy Memorandum (PM) restates the Violence Against Women Act (VAWA) revocation policy.

Scope
Unless specifically exempted herein, this PM applies to and is binding on all USCIS employees.

Authority
8 CFR 205.2; 62 FR 16607.

Background
A memorandum addressing the revocation of VAWA-based self-petitions was originally issued August 5, 2002. At that time, certain district offices were issuing notices of intent to revoke Form I-360, Petitions for Amerasian, Widow(er), or Special Immigrant, that were approved at the Vermont Service Center (VSC) pursuant to the self-petitioning provisions contained in VAWA. The 2002 memorandum was intended to ensure consistency in the adjudication of VAWA self-petitions, including consistency in revocations of VAWA self-petitions. Accordingly, the VSC was designated as the USCIS office with the sole authority to revoke an approved VAWA self-petition. However, district offices have not been following the 2002 memorandum instructions.

Policy
In 1997, to ensure appropriate and expeditious handling of all self-petitions filed by battered spouses and children, the former Immigration and Naturalization Service implemented a centralized filing procedure by which all VAWA self-petitions are adjudicated at the VSC. The VSC adjudications officers assigned to the VAWA unit have received specialized domestic violence training and have developed expertise in adjudicating these petitions, including expertise in identifying fraudulent filings. Therefore, in order to ensure consistency in the adjudication of VAWA cases, self-petitions that field offices believe should be reviewed for possible revocation are to be returned to the VSC for review.

This PM therefore reiterates the policy in order to remind officers that a request for review must be based on new evidence not available at the time the Form I-360 was approved by the VSC.

All requests must be accompanied by a memorandum explaining the new evidence and its impact on the adjudication of the self-petition, and the memorandum must be signed by a supervisor. As of the date of this PM, the VSC will not accept any requests for review that do not follow the instructions outlined below.

Implementation
Accordingly, the *AFM* is revised as follows:

☞ 1. Add new paragraph (z) to *AFM* Chapter 21.14 to read:

Chapter 21: Family-based Petitions and Applications

* * *

21.14 Self-petitions by Abused Spouses and Children

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(z) Revocation of VAWA-based Forms I-360.

(1) Field Request for Review of an Approved VAWA-based Form I-360. If an officer in the field receives new information that was not available to the VSC at the time of the approval of a VAWA self-petition, and that new information leads the officer to reasonably believe that a VAWA self-petition should be revoked, the officer must write a memorandum to his or her Supervisory Immigration Service Officer (SISO) explaining why the VAWA self-petition should be reviewed for possible revocation. The memorandum must state what the new information is and how USCIS obtained it.

(2) Supervisory Review and Return to VSC. If, upon review of an officer's memorandum of explanation, the SISO concurs in the officer's assessment, the SISO must sign the memorandum and forward it, with the file in question, to the VSC to the attention of the VAWA unit. A VSC VAWA unit supervisor will review the memorandum of explanation and the relating file and make a recommendation either to initiate revocation proceedings or to reaffirm the self-petition. If the VSC supervisor concurs with a recommendation to reaffirm the self-petition, he or she must write a memorandum explaining why the self-petition was not revoked. This memorandum will be returned to the field with the file. In all such situations, the VSC is expected to complete its review process on an expedited basis. Self-petitions being returned to the VSC from a field office, or from the VSC to a field office, must in all cases be accompanied by a memorandum signed by the appropriate supervisor.

(3) Reminder of Special Provisions Relating to VAWA Cases. Officers should keep in mind that section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (8 U.S.C. § 1367) prohibits DHS employees from making an adverse determination of admissibility or deportability of an alien using information provided solely by:

- A spouse or parent who has battered the alien or subjected the alien to extreme cruelty;

- A member of the spouse's or parent's family residing in the same household as the alien who has battered the alien or subjected the alien to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty;

- A spouse or parent who has battered the alien's child or subjected the alien's child to extreme cruelty (without the active participation of the alien in the battery or extreme cruelty); or

- A member of the spouse's or parent's family residing in the same household as the alien who has battered the alien's child or subjected the alien's child to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty. (*See* IIRIRA § 384(a)(1). For limited exceptions to this prohibition, *see* IIRIRA § 384(b).)

Any adverse information received by USCIS from a self-petitioner's U.S. citizen or lawful permanent resident spouse or parent, or from relatives of that spouse or parent, must be independently corroborated by an unrelated source before USCIS may take adverse action based on that information. (*See* Virtue, INS Office of Programs, "Non-Disclosure and Other Prohibitions Relating to Battered Aliens: IIRIRA § 384," (May 5, 1997).)

Section 384 of IIRIRA also prohibits DHS employees from permitting the use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information that relates to an alien who is the beneficiary of a VAWA-based self-petition. (*See* IIRIRA § 384(a)(2).) Anyone who willfully uses, publishes, or permits such information to be disclosed in violation of IIRIRA § 384 will face disciplinary action and be subject to a civil money penalty of up to $5,000 for each such violation. (*See* IIRIRA § 384(c).)

☞ 2. Add new paragraph (z) to *AFM* Chapter 21.15 to read:

21.15 Self-petitions by Abused Parents of U.S. Citizens

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(z) Revocation of VAWA-based Forms I-360.

(1) Field Request for Review of an Approved VAWA-based Form I-360. If an officer in the field receives new information that was not available to the VSC at the time of the approval of a VAWA self-petition, and that new information leads the officer to reasonably believe that a VAWA self-petition should be revoked, the officer must write a memorandum to his or her Supervisory Immigration Service Officer (SISO) explaining why the VAWA self-petition should be reviewed for possible revocation. The memorandum must state what the new information is and how USCIS obtained it.

(2) Supervisory Review and Return to VSC. If, upon review of an officer's memorandum of explanation, the SISO concurs in the officer's assessment, the SISO must sign the memorandum and forward it, with the file in question, to the VSC to the attention of the VAWA unit. A VSC VAWA unit supervisor will review the memorandum of explanation and the relating file and make a recommendation either to initiate revocation proceedings or to reaffirm the self-petition. If the VSC supervisor concurs with a recommendation to reaffirm the self-petition, he or she must write a memorandum explaining why the self-petition was not revoked. This memorandum will be returned to the field with the file. In all such situations, the VSC is expected to complete its review process on an expedited basis. Self-petitions being returned to the VSC from a field office, or from the VSC to a field office, must in all cases be accompanied by a memorandum signed by the appropriate supervisor.

(3) Reminder of Special Provisions Relating to VAWA Cases. Officers should keep in mind that section 384 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (8 U.S.C. § 1367) prohibits DHS employees from making an adverse determination of admissibility or deportability of an alien using information provided solely by:

- A spouse or parent who has battered the alien or subjected the alien to extreme cruelty;

- A member of the spouse's or parent's family residing in the same household as the alien who has battered the alien or subjected the alien to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty;

- A spouse or parent who has battered the alien's child or subjected the alien's child to extreme cruelty (without the active participation of the alien in the battery or extreme cruelty); or

- A member of the spouse's or parent's family residing in the same household as the alien who has battered the alien's child or subjected the alien's child to extreme cruelty when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty. (*See* IIRIRA § 384(a)(1). For limited exceptions to this prohibition, *see* IIRIRA § 384(b).)

Any adverse information received by USCIS from a self-petitioner's U.S. citizen or lawful permanent resident spouse or parent, or from relatives of that spouse or parent, must be independently corroborated by an unrelated source before USCIS may take adverse action based on that information. (*See* Virtue, INS Office of Programs, "Non-Disclosure and Other Prohibitions Relating to Battered Aliens: IIRIRA § 384," (May 5, 1997).)

Section 384 of IIRIRA also prohibits DHS employees from permitting the use by or disclosure to anyone (other than a sworn officer or employee of the Department, or bureau or agency thereof, for legitimate Department, bureau, or agency purposes) of any information that relates to an alien who is the beneficiary of a VAWA-based self-petition. (*See* IIRIRA § 384(a)(2).) Anyone who willfully uses, publishes, or permits such information to be disclosed in violation of IIRIRA § 384 will face disciplinary action and be subject to a civil money penalty of up to $5,000 for each such violation. (*See* IIRIRA § 384(c).)

☞ 3. The *AFM* **Transmittal Memoranda** button is revised by adding a new entry, in numerical order, to read:

AD10-49 12/15/2010	**Chapter 21.14(z)** **Chapter 21.15(z)**	This memorandum provides guidance on revocations of VAWA-based I-360s.

Use

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

Contact Information

Questions or suggestions regarding this PM should be addressed through appropriate channels to the Office of Policy & Strategy or to the Service Center Operations Directorate.