

# Guardians at

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# the gates

BY MICHAEL B. GOLDSTEIN

**T**he discovery that several of the 9/11 hijackers were in the U.S. on student visas set off a quite understandable frenzy about how the government and colleges keep track of the hundreds of thousands of foreign students attending American institutions. The federal response has been twofold: first, speed up the implementation of the internet-based Student and Exchange Visitor Information System (SEVIS), and second, enact new laws imposing additional reporting requirements on institutions.

## SEVIS was conceived in 1996

The development of SEVIS predates 9/11 by some years, triggered in part by concerns that arose after the 1993 attack on the World Trade Center. Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) in 1996, requiring the Immigration and Naturalization Service (INS) to collect information from post-secondary institutions about non-immigrant foreign students; that is, those with F, J and M visas. SEVIS is just now in the beginning stages of national implementation.

Educational institutions must report to INS the address and academic status of each covered foreign student, along with any disciplinary action taken in response to a criminal conviction. This reporting has relied on a far-from-real-time, essentially manual, paper-based system. SEVIS was developed to enable on-line updates, including current reports of student enrollment status on a term basis, immediate reporting of student name or address changes, and prompt reporting of a student's com-

## Sure, it sounds easy...

*The technical side of SEVIS is complicated, too*

BY RICHARD JACIK

**I**t started out simply enough. The INS, with help from the State Department and ED, contracted with Electronic Data Systems to develop SEVIS, whose information on student visitors is to be shared with other government agencies, with systems running at ports of entry, U.S. consulates abroad and the Department of Education. SEVIS would eventually be funded through fees collected from F, M, & J visa applicants.

One of its purposes, in INS' words, is to "recognize, predict, and report trends and anomalies." Unfortunately, the only anomalies being reported thus far involve SEVIS itself.

Aside from being generally disliked on principle by school staffers who immediately and derogatorily termed it the "terrorist tracking system," there are several technical problems in need of solution, starting with how schools interact with SEVIS.

The quantity of information a school will be reporting to the INS, as well as how frequently changes to that data are likely to take place determines the data transfer method. Institutions with fewer foreign students can access their SEVIS data using the internet to update one student at a time with keyboard and browser.

Things begin to get sticky with large volume schools, who would likely prefer a batch interface. INS has published the XML Document Type Definition (DTD) for batch interface (see [www.ins.usdoj.gov/graphics/services/temp-benefits/sevppr2.pdf](http://www.ins.usdoj.gov/graphics/services/temp-benefits/sevppr2.pdf)). A school that wants to use it must obtain a digital certificate from an INS-approved authority (e.g., Verisign), then pass an interface acceptance test, and certification from the INS or State Department. Then, despite the use of XML to manage the translation of datasets and records (each with up to 100 different data elements), the processed results will be available *no sooner* than 24 hours after submission.

Many colleges are hoping their student information system vendors can satisfy SEVIS requirements. However, with the final specs just released in July and a mandatory nationwide, go-live date of January 30 just around the corner, other problems are surfacing. It seems that many student information systems, whether purchased or home-grown, are not tracking events that require SEVIS updates, nor are they triggering any processing based on those events. That's a pretty big problem all by itself, since all such data-changing events must be reported to SEVIS within 30 days of their occurrence.

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pletion of, withdrawal from, or failure to complete a program.

### **Born in 2003?**

The target date for implementation of SEVIS is January 1, 2003, with participation by postsecondary institutions

required by January 30th. However, INS has yet to publish final rules guiding the implementation. When proposed regulations were published in May 2002, INS gave institutions a one-month comment period.

Many institutions and higher edu-

cation associations argued the difficulties involved in meeting the January 30th deadline. The INS has since said that schools must start using SEVIS by January 2003, but can finish entering all student data by Fall 2003. Despite that reprieve, the Congress now says significant parts of SEVIS must be in place even earlier. And it is unclear when INS will publish its final rule, as well as how the agency will respond to the comments it received.

### **Supplies of help are short**

Support for the implementation of SEVIS remains severely limited. In July the INS made it possible for institutions to apply for preliminary use of SEVIS before the mandatory compliance date, with the stated expectation that this would facilitate early implementation. More recently, however, the INS has discontinued its SEVIS training program, ostensibly to focus on implementation.

The INS says it will continue to provide technical support at its SEVIS Help Desk, and hopes to distribute a videotaped training session.

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For its part, INS says SEVIS is ready to go, having been piloted and tested with a number of colleges. Yet some nagging questions remain. For example, just how secure can you make a web-based system that will be accessed by so many? Passwords (albeit, temporary ones), can be requested online and are emailed without encryption.

Some third-party product vendors have stepped in to help schools live with SEVIS. Windstar Technologies ([www.windstar-tech.com](http://www.windstar-tech.com)) Visa Manager provides a desktop application that manages interaction with SEVIS and provides an institutional repository of visa information. Schools using Visa Manager like its simplicity, though larger schools with broadly integrated ERP systems may see it insufficient for the long-term.

Academe, Inc. ([www.academeinc.com](http://www.academeinc.com)) takes a different approach by providing all-in-one software, *Sevis Works*, that can be used at different levels depending on an institution's technical environment. In addition to a repository, their software can act as middleware between INS and a school's own systems. ■

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But the Department of Justice's inspector general recently stated that, without a comprehensive system in place to train college officials, SEVIS will not be ready by the January deadline. To further complicate matters, Congress recently enacted two pieces of legislation requiring post-secondary institutions to report additional information to the INS, and to do so in the interim period *before* SEVIS is fully implemented.

### **Electronic proof of acceptance is now required**

The Enhanced Border Security and Visa Entry Reform Act of 2002 was signed into law on May 14, 2002. It requires the establishment of an electronic method for verifying the acceptance for admission of foreign students at postsecondary institutions; for confirming actual enrollment by such students within 30 days after the end of each enrollment period, and for ongoing reporting of other changes to student status.

The INS will not issue category F, J or M visas to students until the educational institution provides electronic

proof that the student has been accepted for admission. In parallel fashion, the law requires INS to notify institutions when students accepted for admission have been admitted into the country. Congress directed that this interim tracking system be in place 120 days after its adoption – meaning mid-September 2002.

A second new law, the USA PATRIOT Act, requires the U.S. Attorney General to “fully implement and expand” SEVIS *prior* to January 1, 2003. It also requires the INS to retain information about each student's date and port of entry.

### **FERPA issues have been resolved, at least**

Beyond conflicting deadlines and lack of technical support, there have also been concerns about releasing student information otherwise protected under the Family Educational Rights and Privacy Act (FERPA). Fortunately, these questions have been resolved both by the Department of Education and under the more recent anti-terrorism legislation. INS Form I-20, which

must be filed before an individual can receive a student visa, requires an applicant to expressly authorize the institution to release any records that are necessary to confirm student status.

The ED office responsible for enforcing FERPA compliance has issued guidance that this authorization is sufficient to waive FERPA protection. IIRIRA specifically provides that FERPA shall not apply to SEVIS operations. The USA PATRIOT Act allows the federal government to seek an *ex parte* court order to collect and use educational records that a judge deems relevant to terrorism investigations.

SEVIS represents an important effort to enable the government to keep track of one significant category of foreign visitors – those who enter the U.S. on student visas. At the same time, a new set of obligations are being imposed on thousands of educational institutions with minimal technical support. ■

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