



*Homeland Security Investigations*

# T Nonimmigrant Status (T Visa) Handbook

HSI HB 18-01 / January 31, 2018



U.S. Immigration  
and Customs  
Enforcement

FOR OFFICIAL USE ONLY - LAW ENFORCEMENT SENSITIVE

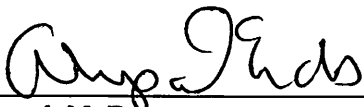
## Foreword

The T Nonimmigrant Status (T Visa) Handbook provides a single source of national policies, procedures, responsibilities, guidelines, and controls to be followed by U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) Special Agents (SAs). It sets forth SAs' responsibilities when T visa applicants are human trafficking victims in HSI investigations. This Handbook contains instructions and guidance to help ensure uniformity and operational consistency among all HSI field offices. Oversight of the T Visa Program resides with the Unit Chief, Victim Assistance Program and Management Oversight Unit.

This Handbook supersedes Office of Investigations (OI) Handbook (HB) 09-03, "T Nonimmigrant Status Handbook," dated October 5, 2009, and any other policy or other guidance on the T visa issued by the former ICE OI, Office of Intelligence, or Office of International Affairs, or HSI prior to the date of issuance of this Handbook.

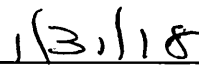
The T Nonimmigrant Status (T Visa) Handbook is an internal policy of HSI. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law by any party in any administrative, civil, or criminal matter, nor are any limitations hereby placed on otherwise lawful enforcement prerogatives of ICE. This Handbook is For Official Use Only (FOUO) – Law Enforcement Sensitive. It is to be controlled, stored, handled, transmitted, distributed, and disposed of in accordance with U.S. Department of Homeland Security policy relating to FOUO information and the ICE Directive on Safeguarding Law Enforcement Sensitive Information. This information shall not be distributed beyond the original addressees without prior authorization of the originator. If disclosure of this Handbook or any portion of it is demanded in any judicial or administrative proceeding, the HSI Records and Disclosure Unit, as well as the Office of the Principal Legal Advisor and/or the appropriate U.S. Attorney, are to be consulted so that appropriate measures can be taken to invoke privileges against disclosure. This Handbook contains information which may be exempt from disclosure to the public under the Freedom of Information Act, Title 5, United States Code, Section 552(b), and protected from disclosure pursuant to the law enforcement privilege. Any further request for disclosure of this Handbook or information contained herein should be referred to the HSI Records and Disclosure Unit.

The HSI Policy Unit is responsible for coordinating the development and issuance of HSI policy. All suggested changes or updates to this Handbook should be submitted to the HSI Policy Unit which will coordinate all needed revisions with the Victim Assistance Program and Management Oversight Unit.



Derek N. Benner

6 Deputy Executive Associate Director and  
Senior Official Performing the Duties of  
the Executive Associate Director  
Homeland Security Investigations



Date

**T NONIMMIGRANT STATUS (T VISA)  
HANDBOOK**

**Table of Contents**

**Chapter 1. PURPOSE AND SCOPE .....1**

**Chapter 2. INTRODUCTION .....1**

**Chapter 3. DEFINITIONS.....1**

- 3.1 Coercion ..... 1
- 3.2 Commercial Sex Act .....2
- 3.3 Continued Presence .....2
- 3.4 Debt Bondage.....2
- 3.5 Involuntary Servitude.....2
- 3.6 Law Enforcement Agency .....2
- 3.7 Nongovernmental Organization.....3
- 3.8 Peonage.....3
- 3.9 Physical Presence.....3
- 3.10 Reasonable Request for Assistance .....3
- 3.11 Severe Form of Trafficking in Persons .....3
- 3.12 Victim-Centered Approach.....4

**Chapter 4. AUTHORITIES.....4**

**Chapter 5. RESPONSIBILITIES .....5**

- 5.1 Executive Associate Director, Homeland Security Investigations .....5
- 5.2 Unit Chief, Victim Assistance Program/Management Oversight Unit.....5
- 5.3 Section Chief, Victim Assistance Program.....5
- 5.4 Special Agents in Charge.....5
- 5.5 Responsible Official.....5
- 5.6 Group Supervisor .....5
- 5.7 Victim Assistance Specialist.....6
- 5.8 HSI Embedded Attorneys .....6
- 5.9 Special Agents .....6

**Chapter 6. T VISA BASICS .....6**

- 6.1 Strengthen Law Enforcement Efforts .....6
- 6.2 Immigration and Public Benefits for Human Trafficking Victims.....7
- 6.3 T Visa Eligibility Requirements .....7

• 6.4	USCIS Adjudication .....	7
• 6.5	HSI Human Trafficking Investigations and the T Visa .....	8
• 6.6	Immigration Consequences.....	9
<b>Chapter 7.</b>	<b>PROCEDURES REGARDING FORM I-914B, SUPPLEMENT B, LAW ENFORCEMENT OFFICER DECLARATION FOR VICTIM OF TRAFFICKING IN PERSONS .....</b>	<b>9</b>
• 7.1	Purpose and Value of Form I-914B .....	9
• 7.2	Signature Authority.....	10
• 7.3	Instructions for Completing Form I-914B .....	10
• 7.4	Unique Cases Where Victims Are Eligible .....	11
• 7.5	Reasonable Requests for Cooperation from Law Enforcement.....	11
• 7.6	Timeframe for HSI's Completion of Form I-914B.....	12
• 7.7	HSI Declining to Sign Form I-914B.....	12
• 7.8	Documenting USCIS Denial of T Visa Application.....	13
• 7.9	Notifying USCIS of a Disavowed Form I-914B.....	13
• 7.10	Extending the T Visa Duration for Law Enforcement Purposes .....	13
<b>Chapter 8.</b>	<b>REQUESTS FOR LETTERS OF SUPPORT FOR VICTIMS SEEKING ADJUSTMENT OF STATUS .....</b>	<b>13</b>
<b>Chapter 9.</b>	<b>PROHIBITION ON DISCLOSURE OF INFORMATION .....</b>	<b>14</b>
• 9.1	Prohibition and Law Enforcement Exception.....	14
• 9.2	No Adverse Determinations Based on Information Solely from the Trafficker .....	14
• 9.3	Disciplinary Action for Violation .....	14
<b>APPENDICES</b>		
Appendix A	Sample Form I-914B Denial Letters .....	A-i
Appendix B	Sample Letter Supporting T Adjustment of Status .....	B-i
Appendix C	Sample Letter Declining to Provide Support for T Adjustment of Status....	C-i
Appendix D	Acronyms .....	D-i

# **T NONIMMIGRANT STATUS (T VISA) HANDBOOK**

## **Chapter 1. PURPOSE AND SCOPE**

The T Nonimmigrant Status (T visa) Handbook establishes uniform policy and procedures for U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) Special Agents (SAs) and sets forth their responsibilities when T visa applicants are human trafficking victims identified as part of an HSI investigation. The investigation of human trafficking, as well as the identification of, and assistance to, its victims, is an HSI and Department of Homeland Security (DHS) priority.

Specifically, the Handbook provides guidance on how to complete:

- A. U.S. Citizenship and Immigration Services (USCIS) Form I-914, Supplement B, Declaration of a Law Enforcement Officer for Victim of Trafficking in Persons;
- B. A letter declining to complete Form I-914, Supplement B;
- C. A letter regarding continued cooperation for T visa recipient applying for adjustment of status;
- D. A letter declining to provide support for adjustment of status; and
- E. Required notations to the file.

## **Chapter 2. INTRODUCTION**

Congress created the T visa to provide humanitarian relief in the form of temporary nonimmigrant status to victims. It helps to encourage victims to report the crime to law enforcement and work with them despite the fear, intimidation, manipulation, and control tactics traffickers use, which includes instilling fear of arrest and deportation. Although HSI's role is limited with regard to the T visa, that role is a critical element of a victim-centered approach that gives victims an opportunity to rebuild their life after experiencing human trafficking.

## **Chapter 3. DEFINITIONS**

The following definitions are provided for the purposes of this Handbook:

### **3.1 Coercion**

Threats of “serious harm” to or physical restraint against any person; any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in

serious harm to or physical restraint against any person; or the abuse or threatened abuse of the legal process. Title 22, United States Code (U.S.C.), Section 7102 (3); Title 8, Code of Federal Regulations (C.F.R.), Section 214.11(a).

### **3.2 Commercial Sex Act**

Any sex act on account of which anything of value is given to or received by any person. 22 U.S.C. § 7102 (4); 8 C.F.R. § 214.11(a).

### **3.3 Continued Presence**

Designation provided to individuals identified by law enforcement as victims of human trafficking and potential witnesses to the crime. This designation allows eligible aliens to remain in the United States temporarily and to be granted work authorization. Continued Presence (CP) may be granted initially for a period of two years and renewed in increments of up to two years. CP is authorized under provisions of section 107(c)(3) of the Trafficking Victims Protection Act (TVPA), which has since been reauthorized, and is codified at 22 U.S.C. § 7105(c)(3). (Note: See HSI Directive 10075.2, “Continued Presence,” dated October 6, 2016, or as updated.)

### **3.4 Debt Bondage**

The status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined. 22 U.S.C. § 7102 (5); 8 C.F.R. § 214.11(a).

### **3.5 Involuntary Servitude**

A condition of servitude induced by means of any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or a condition of servitude induced by the abuse or threatened abuse of the legal process. 22 U.S.C. § 7102 (6); 8 C.F.R. § 214.11(a).

### **3.6 Law Enforcement Agency**

A federal, state, or local law enforcement agency (LEA), prosecutor, judge, labor agency, children’s protective services agency, or other authority that has the responsibility and authority for the detection, investigation, and/or prosecution of severe forms of trafficking in persons. Federal LEAs include, but are not limited to: U.S. Attorneys’ Offices; Department of Justice (DOJ)’s Civil Rights Division, Criminal Division; U.S. Marshals Service; Federal Bureau of Investigation (FBI); ICE; U.S. Customs and Border Protection; Department of State’s Diplomatic Security Service; and Department of Labor. 8 C.F.R. § 214.11(a).

### **3.7 Nongovernmental Organization**

Typically, a non-profit organization on a local, national, or international scale that operates independent of government.

### **3.8 Peonage**

A status or condition of involuntary servitude based on real or alleged indebtedness. 8 C.F.R. § 214.11(a).

### **3.9 Physical Presence**

A victim must be physically present in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands or at a port of entry on account of trafficking in order to be eligible for the T visa. This includes victims who were liberated by an LEA, escaped and later contacted an LEA, or escaped and remained in the United States because of the trafficking. Additionally, physical presence also includes victims who have been allowed entry into the United States for participation in investigative or judicial processes associated with an act or perpetrator of trafficking. 8 C.F.R. § 214.11(g).

### **3.10 Reasonable Request for Assistance**

A request made by an LEA to a victim to assist in the investigation or prosecution of the acts of trafficking in persons or the investigation of crime where acts of trafficking are at least one central reason for the commission of that crime. The standard to determine “reasonableness” is whether the LEA request was reasonable, not whether the victim’s refusal was unreasonable. 81 Fed. Reg. 92,274 (Dec. 19, 2016).

The “reasonableness” of the request depends on the totality of the circumstances. Factors to consider include, but are not limited to: general law enforcement and prosecutorial practices; the nature of the victimization; the specific circumstances of the victim; severe trauma (both mental and physical); access to support services; whether the request would cause further trauma; the safety of the victim or the victim’s family; compliance with other requests and the extent of such compliance; whether the request would yield essential information; whether the information could be obtained without the victim’s compliance; whether an interpreter or attorney was present to help the victim understand the request; cultural, religious, or moral objections to the request; the time the victim had to comply with the request; and the age and maturity of the victim. 8 C.F.R. § 214.11(a).

### **3.11 Severe Form of Trafficking in Persons**

A severe form of trafficking in persons is:

- A. Sex trafficking (the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act) in which a

- commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or
- B. The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

22 U.S.C. § 7102 (9); 8 C.F.R. § 214.11(a).

### **3.12 Victim-Centered Approach**

A systematic focus on the needs and concerns of a victim to ensure the compassionate and sensitive delivery of services in a nonjudgmental manner. A victim-centered approach seeks to minimize retraumatization associated with the criminal justice process by providing the support of victim advocates and service providers, empowering survivors as engaged participants in the process, and providing survivors an opportunity to play a role in seeing their traffickers brought to justice. It ensures that victims' rights and survivors' voices and perspectives are incorporated throughout the development and implementation of coordinated community-based efforts, which is key to the successful investigation and prosecution of the trafficker.

## **Chapter 4. AUTHORITIES**

The following authorities govern the T visa:

- A. Trafficking Victims Protection Act (TVPA) of 2000 and all subsequent TVPA Reauthorizations.
- B. 8 U.S.C. § 1101(a)(15)(T), Definitions.
- C. 8 U.S.C. § 1367, Penalties for Disclosure of Information.
- D. 8 C.F.R. Part 212, § 16, Applications for exercise of discretion relating to T nonimmigrant status.
- E. 8 C.F.R., Part 214, § 11, Alien victims of severe forms of trafficking in persons.
- F. 8 C.F.R., Part 245, § 23, Adjustment of aliens in T nonimmigrant classification.
- G. ICE Directive 10071.1, "Victim Assistance Program," dated August 25, 2011, or as updated.
- H. HSI Directive 10075.2, "Continued Presence," dated October 6, 2016, or as updated.
- I. HSI HB 15-04, Human Smuggling and Trafficking Investigations Handbook, dated August 21, 2015, or as updated.



- J. DHS U and T Visa Law Enforcement Resource Guide, dated January 2016, or as updated.

## **Chapter 5. RESPONSIBILITIES**

### **5.1 Executive Associate Director, Homeland Security Investigations**

The Executive Associate Director of HSI is responsible for the oversight of the policy and procedures in this Handbook.

### **5.2 Unit Chief, Victim Assistance Program/Management Oversight Unit**

The Unit Chief, Victim Assistance Program/Management Oversight Unit, is responsible for the implementation of the provisions of this Handbook within HSI.

### **5.3 Section Chief, Victim Assistance Program**

The Section Chief, Victim Assistance Program, is responsible for developing and disseminating guidance on victim assistance, providing training and technical assistance, and monitoring compliance with federal crime victim assistance statutes.

### **5.4 Special Agents in Charge**

Special Agents in Charge (SACs) are responsible for implementing the provisions of this Handbook within their respective areas of responsibility (AORs) and for establishing local protocol to ensure proper implementation within their AORs. Each SAC shall designate a management level Responsible Official (RO) in each field office (SAC, Deputy Special Agent in Charge (DSAC), Assistant Special Agent in Charge (ASAC), or Resident Agent in Charge (RAC)) within the SAC's AOR.

### **5.5 Responsible Official**

The Responsible Official (RO) reviews and signs Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (T visa declaration or Form I-914B), as well as letters of support for victims seeking adjustment of status. ROs are designated by the SACs.

### **5.6 Group Supervisor**

The investigating SA's Group Supervisor (GS) is responsible for signing T visa declarations as the "law enforcement officer" and submitting them for review to the RO.

## **5.7 Victim Assistance Specialist**

A Victim Assistance Specialist (VAS) is a Social Science Program Specialist who is a subject matter expert in victimization issues and carries out victim assistance responsibilities on a full-time basis for a SAC office. The VAS is responsible for providing guidance to SAs and VACs on immigration benefits for human trafficking victims and the designation of CP. The VAS is also responsible for referring victims who need legal advice or assistance with completion of their T visa application to the appropriate nongovernmental organization (NGO) service provider.

The VAS maintains records on Form I-914B approvals and denials and submits this data at the end of the fiscal year and otherwise upon request to the HSI Human Trafficking Unit at Headquarters. The VAS is not responsible for providing assistance with completion of any portion of the victim's T visa application or for signing the T visa declaration.

## **5.8 HSI Embedded Attorneys**

HSI Embedded Attorneys are available as needed to answer legal questions regarding the T visa and T visa declaration. The Human Rights Law Section in the Office of the Principal Legal Advisor provides legal advice, training, and technical assistance on human trafficking, victim assistance, T visas, U visas, and CP.

## **5.9 Special Agents**

SAs are responsible for complying with the provisions of this Handbook. In particular, SAs are responsible for completing the I-914B on a timely basis when HSI determines that a victim-witness in an HSI investigation is a human trafficking victim and has continued to cooperate with reasonable requests for assistance.

# **Chapter 6. T VISA BASICS**

## **6.1 Strengthen Law Enforcement Efforts**

Human trafficking, also known as trafficking in persons, is a form of modern-day slavery in which traffickers lure individuals with false promises of employment and a better life. Immigrants can be particularly vulnerable to human trafficking due to a variety of factors, including, but not limited to: language barriers, separation from family and friends, lack of understanding of U.S. laws, fear of deportation, and cultural differences.

Congress, in the TVPA of 2000, created the T visa out of recognition that human trafficking victims without legal status may otherwise be reluctant to help in the investigation or prosecution. The TVPA was enacted to strengthen the ability of law enforcement agencies to investigate and prosecute serious crimes and human trafficking, while offering protections to victims without the immediate risk of being removed from the country.

## **6.2 Immigration and Public Benefits for Human Trafficking Victims**

The T visa is an immigration benefit for trafficking victims who meet certain eligibility requirements. The T visa allows eligible victims and certain family members to temporarily remain and work in the United States, generally for four years. While a T visa recipient, the victim has an ongoing duty to cooperate with law enforcement's reasonable requests for assistance in the investigation or prosecution of human trafficking. Recipients receive employment authorization and public benefits that equal those provided to refugees. Refugee benefits can include cash assistance, medical assistance, employment services, vocational training, English language instruction, translation services, and case management.

If eligible, a T visa recipient may apply for adjustment to lawful permanent resident status after three years in the United States or upon completion of the investigation or prosecution, whichever occurs earlier.

Congress capped the number of available T visas for principal applicants at 5,000 per fiscal year. However, to date, the annual cap has never been reached and visas remain available to applicants who qualify.

## **6.3 T Visa Eligibility Requirements**

USCIS may find an individual eligible for a T visa if the victim:

- A. Is or was a victim of a severe form of trafficking in persons (which may include sex or labor trafficking), as defined by federal law;
- B. Is in the United States, American Samoa, the Commonwealth of the Northern Mariana Islands or at a U.S. port of entry due to trafficking. This includes law enforcement facilitated entry to participate in an investigation or judicial process even if trafficking occurred outside the United States (see Section 7.4);
- C. Has complied with any reasonable request from an LEA for assistance in the investigation or prosecution of human trafficking unless the applicant is under 18 years of age or is unable to cooperate due to physical or psychological trauma; and
- D. Would suffer extreme hardship involving unusual and severe harm if removed from the United States.

In addition, the victim must be admissible (based on a review of criminal history, immigration violations, and other factors) to the United States. If inadmissible, the individual may apply for a waiver of inadmissibility for which he or she may be eligible.

## **6.4 USCIS Adjudication**

USCIS takes several steps to determine whether a victim is eligible for a T visa. USCIS reviews the victim's entire application, which includes Form I-914, as well as Form I-914B or other

evidence of the victim's cooperation, the victim's affidavit, and supporting evidence. Supporting evidence may include court documents, witness affidavits, medical reports, and any other credible evidence to show that the victim is eligible for a T visa. If the applicant is inadmissible, USCIS also considers all evidence relevant to any potential waivers of inadmissibility.

For all T visa applicants and their qualifying family members, USCIS conducts a background investigation, including an FBI fingerprint check and name check. USCIS will also review the applicant's immigration records to assess whether any inadmissibility issues exist, such as criminal history, immigration violations, or security concerns. Any evidence that law enforcement and immigration authorities possess may be used in determining eligibility for a T visa. USCIS may contact the LEA if there are any issues or questions that arise during the adjudication based on information provided in the T visa declaration. Because qualifying family members are subject to the same criminal background review, fingerprint checks, and immigration status checks as the principal victim applicant, it is possible that a family member's adverse criminal or immigration background would result in a denial of the family member's application even when the principal has been approved.

## **6.5 HSI Human Trafficking Investigations and the T Visa**

At the onset of a human trafficking investigation, an SA works with a VAS to ensure that the victim receives necessary assistance. As soon as practicable, the SA applies for CP for any eligible foreign national victim witness so that the individual may temporarily remain in the United States, as well as work and become eligible for social services. (See Section 3.3.) Victim service providers have an important role in the stabilization and long-term recovery of trafficking victims and often provide the following services: shelter, food, clothing, medical care, dental care, legal counsel, immigration assistance, mental health counseling, interpreter services, English language training, job skills training, and case management.

Absent compelling circumstances, such as a serious criminal background unrelated to any criminal acts the victim may have been forced to perform as part of the trafficking scheme, HSI should avoid issuing a Notice to Appear for a trafficking victim. Doing so inhibits the trust that victims may place in LEAs and affects their willingness to cooperate in the overall investigation. Additionally, the charge appears on victims' background checks which could negatively impact their future employment. This practice is consistent with the TVPA and its subsequent reauthorizations, that human trafficking "victims should not be inappropriately incarcerated, fined or otherwise penalized for unlawful acts committed as a result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation." Pub. L. No. 106-386, § 102(b)(19), 114 Stat. 1464.

During the months that follow after CP is granted, the victim may choose to apply to USCIS for a T visa, typically with the help of an immigration attorney. According to the Human Smuggling and Trafficking Center, more than 80% of CP recipients apply for a T visa. Law enforcement initiates CP immediately upon identification of the victim, whereas victims initiate the T visa application typically a few months to one year later. T visa applications are extensive and USCIS can take approximately one year to adjudicate the applications.

The VAS shall refer victims who need legal advice or help completing the T visa application to the appropriate legal service provider. Neither the case agent nor the VAS shall provide assistance with completion of any portion of the victim's T visa application, except for the T visa declaration that HSI is responsible to complete. Additionally, neither the case agent nor the VAS shall make any promises that USCIS will grant an immigration benefit or discuss the T visa declaration in a way that would allow defense counsel to infer that the T visa declaration was provided in exchange for testimony. For questions regarding NGO referrals and collaboration, SAs may contact the Victim Assistance Program at Headquarters at (b) (7)(E) @dhs.gov.

## 6.6 Immigration Consequences

The T visa was created to offer trafficking victims protection from removal. *See* TVPA, 22 U.S.C. § 7105 (2000).

In connection with a T visa application, USCIS may grant a waiver of grounds of inadmissibility, for example, if any activities creating the inadmissibility were connected to the victimization, such as illegal entry, prostitution, or drug offenses. Waivers are also granted in the national interest. 8 C.F.R. § 212.16.

Trafficking victims in pending immigration proceedings apply directly to USCIS; DHS may agree to the victim's request to file with the immigration judge or the Board of Immigration Appeals (BIA) a joint motion to administratively close or terminate proceedings without prejudice. 8 C.F.R. § 214.11(d)(1)(i). Trafficking victims with final orders of removal, deportation, or exclusion may also file a T visa application directly with USCIS. The filing has no effect on DHS authority or discretion to execute the final order although the victim may request an administrative stay of removal. 8 C.F.R. § 214.11(d)(1)(ii). If the T visa application is approved, any order issued by DHS will be deemed cancelled by operation of law. For any order issued by DOJ, the victim may seek cancellation of such order by filing a motion to reopen and terminate removal proceedings with the immigration judge or the BIA. 8 C.F.R. § 214.11(d)(9)(i-ii).

DHS may institute removal proceedings under Section 240 of the Immigration and Nationality Act (INA) for conduct committed after admission or for conduct or a condition that was not disclosed to USCIS prior to the granting of the T visa. 8 C.F.R. § 214.11(n).

## Chapter 7. PROCEDURES REGARDING FORM I-914B, SUPPLEMENT B, LAW ENFORCEMENT OFFICER DECLARATION FOR VICTIM OF TRAFFICKING IN PERSONS

### 7.1 Purpose and Value of Form I-914B

A completed USCIS Form I-914B is optional evidence that can be submitted to help demonstrate victimization and/or compliance with reasonable requests. A T visa declaration is not mandatory and is not given any special evidentiary weight. A T visa declaration itself does not grant a

benefit and is one form of possible evidence, but it does not lead to automatic approval of the application by USCIS. USCIS, not the LEA, will determine if the applicant was or is a victim of a severe form of trafficking in persons and otherwise meets the eligibility requirements. The decision whether to complete a T visa declaration is at the discretion of the LEA. A formal investigation or prosecution is not required to complete an LEA declaration. 8 C.F.R. § 214.11(d)(3).

## **7.2 Signature Authority**

Any T visa declaration must first be signed by the investigating SA's GS. The RO will review and provide the supervisory signature.

If the individual requesting that HSI sign a T visa declaration is a victim of human trafficking and has complied with reasonable requests for assistance from HSI in the investigation, the GS of the investigating SA and RO shall complete and sign the T visa declaration. This practice is consistent with HSI's victim-centered approach, which includes placing the victim's/survivor's rights, priorities, needs, and interests at the center of the work with a crime victim/survivor throughout the investigation and prosecution.

## **7.3 Instructions for Completing Form I-914B**

If HSI determines that the individual is a victim and has continued to cooperate with reasonable requests for assistance, HSI shall complete and return the T visa declaration to the victim or his or her attorney.

The declaration must be provided on USCIS Form I-914, Supplement B. The form and its instructions are available on the USCIS website at [www.uscis.gov](http://www.uscis.gov). The declaration must attach the results of any name or database inquiries performed and describe the victimization (including dates where known) and the cooperation of the victim.

The three page T visa declaration has five sections for completion by the SA:

- A. Part A requests general information about the certifying officer and the LEA, as well as basic information about the victim and the case status.
- B. Part B includes a checklist for indicating the type or types of trafficking to which the victim has been subjected. It also asks the certifying officer to provide a narrative summary of the victimization upon which the applicant's claim is based and the relationship of the victimization to the criminal investigation.
- C. Part C includes a checklist for indicating the cooperation of the victim.
- D. Part D asks the certifying official to indicate any knowledge of the victim's relatives' involvement in the trafficking.
- E. Part E is the attestation of facts of the case and requires the signatures of the investigating SA's GS and the RO.

SAs are encouraged to provide any relevant information on the form or in an attachment that would assist USCIS in adjudicating the application, including questions and concerns.

If SAs are providing additional documents (e.g., a copy of a police report, additional statements, photos) or if more space is needed to fill out any of the information on Form I-914B, they should indicate “see attachment” or “see addendum.” Each additional page should be provided on agency letterhead.

Form I-914B must contain an original signature. That signature must either be typed or printed legibly in a color other than black ink for verification purposes. Photocopies, faxes, or scans of the declaration form cannot be accepted by USCIS as an official declaration.

SAs must return signed forms to the victims or their attorneys to include with the entire application package for USCIS. SAs must not send Form I-914B directly to USCIS.

The field office shall maintain a copy of the T visa declaration in the case file and the case agent shall document the completion of the declaration by writing a Report of Investigation (ROI).

#### **7.4 Unique Cases Where Victims are Eligible**

In the vast majority of HSI investigations, the victimization occurred in the United States and the victim is also in the United States which satisfies the physical presence requirement (see Section 3.9) to be eligible for a T visa. However, in some cases the victim may have departed the United States and is later asked to return and provided valid entry to assist in the investigation or testify in the prosecution. In other cases the victimization investigated by HSI, such as sex tourism, occurred outside of the United States yet was committed by a U.S. citizen who can be investigated and prosecuted under U.S. laws. There may be other trafficking cases involving extraterritorial jurisdiction. In these cases, when the victim enters the United States to participate in the investigative or judicial process, the victim is then eligible to apply for a T visa. 8 C.F.R. § 214.11(g).

If a victim of trafficking abroad makes his or her way to the United States and the reason is not related to or on account of the trafficking and the victim was not allowed entry to participate in an investigative or judicial process related to trafficking or a trafficker, this victim cannot meet the physical presence requirement and would not be eligible for a T visa. 81 Fed. Reg. 92,273 (Dec. 19, 2016).

#### **7.5 Reasonable Requests for Cooperation from Law Enforcement**

Deciding whether to sign a T visa declaration for a victim of human trafficking in an HSI investigation often hinges on whether the victim has complied with “reasonable requests for cooperation.”

The “reasonableness” of the request depends on the totality of the circumstances. Factors to consider include, but are not limited to: general law enforcement and prosecutorial practices; the

nature of the victimization; the specific circumstances of the victim; severe trauma (both mental and physical); access to support services; whether the request would cause further trauma; the safety of the victim or the victim's family; compliance with other requests and the extent of such compliance; whether the request would yield essential information; whether the information could be obtained without the victim's compliance; whether an interpreter or attorney was present to help the victim understand the request; cultural, religious, or moral objections to the request; the time the victim had to comply with the request; and the age and maturity of the victim. 8 C.F.R. § 214.11(a).

Note: Victims who are NOT required to cooperate with reasonable requests from law enforcement include:

- A. victims under the age of 18; and
- B. victims who, due to physical or psychological trauma, are unable to cooperate.

8 C.F.R. § 214.11(b)(3)(i-ii).

## **7.6 Timeframe for HSI's Completion of Form I-914B**

T visa declarations shall be reviewed and completed within 30 business days of receipt of the request.

A formal investigation or prosecution is not required to complete a T visa declaration, nor is there any requirement to wait until the conclusion of an investigation or prosecution. Withholding a T visa declaration until an investigation or prosecution is complete is not in keeping with a victim-centered approach. If CP terminates with the conclusion of the investigation or prosecution and the T visa application is yet to be adjudicated, the victim will be at risk of removal. While each case presents unique facts, DOJ's Human Trafficking Prosecution Unit does not generally advise any delay in signing T visa declarations. Although the T visa application and the T visa declaration are discoverable, prosecutors routinely address and rebut any inconsistent statements, as well as the defense counsel's claim that the investigating or prosecuting agency provided an immigration benefit in exchange for their testimony.

## **7.7 HSI Declining to Sign Form I-914B**

If an SA does not believe that the applicant petitioning USCIS for a T visa is a victim of a severe form of trafficking in persons, as defined by the TVPA, or if the applicant has not cooperated with reasonable requests from HSI for assistance, the SA may make a recommendation to the RO that the request for a T visa declaration be denied. The RO shall review all information available and, if needed, consult with the HSI Embedded Attorney on the final determination regarding the request.

If the request is denied, the RO shall notify the applicant in writing (see Appendix A for sample letters) and document in the case file the reasons for the denial. In the event that no



case has been opened, the RO will ensure that an administrative human trafficking case is opened to document the denial.

### **7.8 Documenting USCIS Denial of T Visa Application**

If USCIS denies a T visa application supported by a T visa declaration signed by HSI, USCIS will notify the applicant and HSI of the decision in writing with reasons for denial. In this event, the case agent shall document the denial in writing with an ROI.

### **7.9 Notifying USCIS of a Disavowed Form I-914B**

If there is evidence that an individual for whom HSI provided a T visa declaration is not a victim of human trafficking or has refused to comply with reasonable requests to assist the investigation or prosecution, the SA shall notify USCIS by email at (b) (7)(E) @uscis.dhs.gov and provide a detailed explanation of his or her assertions in writing. The correspondence shall be maintained in the case file. USCIS may revoke an approved T visa if HSI withdraws its declaration or disavows former statements. 8 C.F.R. § 214.11(d)(3)(ii); 8 C.F.R. § 214.11(m)(2)(iii-iv).

In the event that HSI disavows its previous T visa declaration and USCIS subsequently revokes an approved T visa, the SA shall document this in writing with an ROI.

### **7.10 Extending the T Visa Duration for Law Enforcement Purposes**

USCIS may grant an extension of the T visa beyond four years from the date of the approval in one-year periods if an LEA investigating or prosecuting activity related to human trafficking certifies that the victim's presence in the United States is necessary to assist in the investigation or prosecution. The victim requests the extension and must provide evidence of a law enforcement need. 8 C.F.R. § 214.11(l)(1).

Some victims for whom HSI provided a T visa declaration will return to HSI requesting such evidence. If HSI provided the original T visa declaration and HSI makes the determination that the T visa recipient has continued to comply with reasonable requests for cooperation in an ongoing investigation, it is appropriate for the RO to provide it. USCIS will accept either a new T visa declaration or a letter on agency letterhead, email, or fax. 8 C.F.R. § 214.11(l)(5).

## **Chapter 8. REQUESTS FOR LETTERS OF SUPPORT FOR VICTIMS SEEKING ADJUSTMENT OF STATUS**

Many victims for whom HSI provided a T visa declaration will return to HSI requesting support for their adjustment of status. The adjustment application requires, among other things, that T visa recipients submit: a) new evidence confirming that they have continued to comply with any reasonable request for assistance since the time of filing a T visa application; or b) would suffer extreme hardship involving unusual and severe harm upon removal from the United States. 8 C.F.R. § 245.23(a)(6)(i-ii).

If HSI provided the original T visa declaration and HSI makes the determination that the T visa recipient has continued to comply with reasonable requests for cooperation, it is appropriate for the RO to provide it. USCIS will accept any of three methods:

- A. Submit a copy of the original T visa declaration with a new signature and date;
- B. Complete a new T visa declaration; or
- C. Send a letter attesting to the fact that, during the requisite period of continuous physical presence, the victim has complied with any reasonable request for assistance in the HSI investigation (see Appendix B for a sample letter).

In the event that a T visa recipient has refused to continue to cooperate with reasonable requests for assistance, HSI may decline to provide the requested support and provide a denial letter (see Appendix C for sample letter) to the T visa recipient. Additionally, HSI may inform USCIS of its decision by providing detailed information about the decision to (b) (7)(E) [@uscis.dhs.gov](mailto:_____@uscis.dhs.gov).

Letters shall be signed by the designated management level RO in each field office (SAC, DSAC, ASAC, RAC). The field office shall maintain a copy in the case file and the case agent shall document the request and either completion or denial by writing an ROI.

## **Chapter 9. PENALTIES FOR DISCLOSURE OF INFORMATION**

### **9.1 Prohibition and Law Enforcement Exception**

T visa information is sensitive and must be protected from disclosure. This includes Form I-914B, as well as the knowledge that an individual has applied for a T visa or is a T visa recipient. Information shall not be disclosed unless for a legitimate law enforcement purpose. Additional exceptions include disclosure to benefit providing agencies for eligibility determinations, to NGO victim service providers when the T visa applicant has consented, and generally where there is written consent from the T visa applicant. 8 U.S.C. § 1367.

### **9.2 No Adverse Determinations Based on Information Solely from the Trafficker**

Traffickers may seek retaliation against their victims for identifying them and cooperating with federal law enforcement; in some cases the traffickers will attempt to provide information that would have the victims deported. In no case may DHS employees make an adverse determination of admissibility or deportability under the INA [8 U.S.C.A. § 1101 *et seq.*] using information furnished solely by the trafficker. 8 U.S.C. § 1367 (a)(1)(F).

### **9.3 Disciplinary Action for Violation**

Anyone who willfully uses, publishes, or permits information to be disclosed in violation of this section or who knowingly makes a false certification under 8 U.S.C. § 1229(e) shall be subject

to appropriate disciplinary action and subject to a civil money penalty of not more than \$5,000 for each such violation. 8 U.S.C. § 1367(c).

# Sample Form I-914 Denial Letters

(b) (7)(E)



(b) (7)(E)



# **Sample Letter Supporting T Adjustment of Status**

**Sample Letter  
Supporting T Adjustment of Status**

(b) (7)(E)





**Sample Letter  
Declining to Provide Support  
for T Adjustment of Status**

**Sample Letter  
Declining to Provide Support for T Adjustment of Status**

(b) (7)(E)



**ACRONYMS**

AOR	Area of Responsibility
ASAC	Assistant Special Agent in Charge
BIA	Board of Immigration Appeals
C.F.R.	Code of Federal Regulations
CP	Continued Presence
DHS	Department of Homeland Security
DOJ	Department of Justice
DSAC	Deputy Special Agent in Charge
FBI	Federal Bureau of Investigation
FOUO	For Official Use Only
GS	Group Supervisor
HB	Handbook
HSI	Homeland Security Investigations
ICE	U.S. Immigration and Customs Enforcement
INA	Immigration and Nationality Act
LEA	Law Enforcement Agency
NGO	Nongovernmental Organization
OI	Office of Investigations
RAC	Resident Agent in Charge
RO	Responsible Official
ROI	Report of Investigation
SA	Special Agent
SAC	Special Agent in Charge
TVPA	Trafficking Victims Protection Act
U.S.C.	U.S. Code
U.S.C.A.	U.S. Code Annotated
USCIS	United States Citizenship and Immigration Services
VAC	Victim Assistance Coordinator
VAS	Victim Assistance Specialist