

## PART 1100—TRAFFICKING IN PERSONS

### Subpart A [Reserved]

### Subpart B—Victims of Severe Forms of Trafficking in Persons

Sec.

1100.25 Definitions.

1100.27 Purpose and scope.

1100.29 The roles and responsibilities of federal law enforcement, immigration, and Department of State officials under the Trafficking Victims Protection Act (TVPA).

1100.31 Procedures for protecting and providing services to victims of severe forms of trafficking in persons in federal custody.

1100.33 Access to information and translation services for victims of severe forms of trafficking in persons.

1100.35 Authority to permit continued presence in the United States for victims of severe forms of trafficking in persons.

1100.37 Requirements to train appropriate personnel in identifying and protecting victims of severe forms of trafficking in persons.

AUTHORITY: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1104, 1252; 22 U.S.C. 7101, 7105; 42 U.S.C. 10606 and 10607; and section 107(c) of Public Law 106-386 (114 Stat. 1464, 1477).

SOURCE: 66 FR 38518, July 24, 2001, unless otherwise noted.

### Subpart A [Reserved]

### Subpart B—Victims of Severe Forms of Trafficking in Persons

#### § 1100.25 Definitions.

In this subpart, the following definitions apply:

*Admission* and *Admitted* mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer (8 U.S.C. 1101).

*Alien* means any person not a citizen or national of the United States (8 U.S.C. 1101).

*Attorney General Guidelines* means the *Attorney General Guidelines for Victim and Witness Assistance 2000*, which contain a policy guidance on how to treat crime victims and witnesses; these guidelines are available through the Internet on the Department of Justice's website.

*Coercion* means threats of serious harm to or physical restraint against any person; or 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 law or the legal process (22 U.S.C. 7102).

*Commercial sex act* means any sex act on account of which anything of value is given to or received by any person (22 U.S.C. 7102).

*Debt bondage* means 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).

*Family members of victims of severe forms of trafficking in persons* means spouses, children, parents, or siblings whom traffickers have targeted or are likely to target and for whom protections from harm may reasonably be provided. At the discretion of the responsible official, this classification may be extended to include other family members. This definition is only applicable to the protections from harm referred to in this subpart.

*Federal custody* means that statutory detention and custodial authority exercised by personnel of federal agencies, bureaus, boards, divisions, programs, and offices.

*Federal victims' rights legislation* means the following statutes, as amended: the Victim and Witness Protection Act of 1982 (VWPA), Public Law 97-291, 96 Stat. 1248; the Victims of Crime Act of 1984, Public Law 98-473, 98 Stat. 2170; the Victims Rights and Restitution Act of 1990, Public Law 101-647, 104 Stat. 4820; the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103-322, 108 Stat. 1796; the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104-132, 110 Stat. 1214; the Victim Rights Clarification Act of 1997, Public Law 105-6, 111 Stat. 12; and the Victims of Trafficking and Violence Protection Act of

## § 1100.27

## 28 CFR Ch. XI (7–1–12 Edition)

2000 (VTVPA), Public Law 106–386, 114 Stat. 1464.

*INA* means the Immigration and Nationality Act, 8 U.S.C. 1101 et seq.

*Involuntary servitude* includes 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 the abuse or threatened abuse of the legal process (22 U.S.C. 7102).

*Responsible official* refers to the agency official designated to provide the services described in 42 U.S.C. 10607(a).

*Section 107(c)* means section 107(c) of TVPA, Division A of Public Law 106–386.

*Services to victims* refer to those services to be provided pursuant to 42 U.S.C. 10607(c), unless otherwise specified in the TVPA or this subpart.

*Severe forms of trafficking in persons* means sex trafficking 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 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).

*Sex trafficking* means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act (22 U.S.C. 7102).

*TVPA* means the Trafficking Victims Protection Act of 2000, Public Law 106–386, Division A, October 28, 2000, 114 Stat. 1464, as amended, 22 U.S.C. 7105, et seq.

*United States* means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States (22 U.S.C. 7102).

*Victims' rights* refer to crime victims' rights under 42 U.S.C. 10606(b), as well as in other federal victims' rights legislation.

### § 1100.27 Purpose and scope.

(a) Under section 107(c) of the TVPA, both the Department of Justice (DOJ) and the Department of State (DOS) have been directed to promulgate regulations to implement the following:

(1) Procedures for appropriate federal employees to ensure, to the extent practicable, that victims of severe forms of trafficking in persons are housed in a manner appropriate to their status as crime victims, afforded proper medical care and other assistance, and protected while in federal custody, in accordance with their status as victims of severe forms of trafficking in persons;

(2) Procedures to provide victims of severe forms of trafficking in persons with access to information about their rights and with translation services;

(3) Procedures for federal law enforcement officials to request that certain victims of severe forms of trafficking in persons, who are aliens and are also potential witnesses, be permitted to remain in the United States to effectuate the prosecution of those responsible, and procedures to protect their safety, including taking measures to protect victims of severe forms of trafficking in persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates (these procedures should be appropriate to their status as victims of severe forms of trafficking in persons); and

(4) Training of appropriate DOJ and DOS personnel in identifying victims of severe forms of trafficking in persons, in understanding the particular needs common to victims of severe forms of trafficking in persons, and in providing for the protection of such victims.

(b) The regulations in this subpart apply to all federal law enforcement personnel, immigration officials and DOS officials, insofar as their duties involve investigating or prosecuting traffickers in persons, or may involve identifying, encountering or detaining victims of severe forms of trafficking in persons.

(c) The rights and protections made available to victims of severe forms of trafficking in persons under section