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New Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for "T" Nonimmigrant Status; Final Rule

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 103, 212, 214, 274a and 299

INS No. 2132–01; AG Order No. 2554–2002

RIN 1115–AG19

New Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for ''T'' Nonimmigrant Status

AGENCY: Immigration and Naturalization Service, Department of Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule is intended to assist all concerned Federal officials, including, but not limited to, officials of the Immigration and Naturalization Service (Service), and eligible applicants, in implementing provisions of section 107(e) of the Trafficking Victims Protection Act of 2000 (TVPA). The T nonimmigrant status is available to eligible victims of severe forms of trafficking in persons who have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking in persons, and who can demonstrate that they would suffer extreme hardship involving unusual and severe harm if they were removed from the United States. This rule addresses: the essential elements that must be demonstrated for classification as a T nonimmigrant alien; the procedures to be followed by applicants to apply for T nonimmigrant status; and evidentiary guidance to assist in the application process. The Service will promulgate separate regulations concerning the process for adjusting from T nonimmigrant status to lawful permanent resident status.

DATES: *Effective date*: This interim rule is effective March 4, 2002.

Comment date: Written comments must be submitted on or before April 1, 2002.

ADDRESSES: Please submit written comments to the Immigration and Naturalization Service, Policy Directive and Instructions Branch, Attention: TVPA Implementation Team, 425 I Street, NW., Room 4034, Washington, DC 20536 by mail or email your comments to the VTVPA Implementation Team at *insregs@usdoj.gov.* When submitting comments electronically, please include ''INS No. 2132–01'' in the subject box.

To ensure proper handling, please reference INS No. 2132–01 on your correspondence or e-mail. Comments will be available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Anne Veysey, Office of Programs, Immigration and Naturalization Service, 425 I Street, NW., Room 1000, Washington, DC 20536, telephone: (202) 514–3479.

SUPPLEMENTARY INFORMATION:

Background and Legislative Authority

The Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Pub. L. 106–386, was signed into law on October 28, 2000. The VTVPA is divided into three sections: Division A, the Trafficking Victims Protection Act (TVPA); Division B, the Violence Against Women Act of 2000 (VAWA); and Division C, Miscellaneous Provisions. In passing this legislation, Congress intended to create a broad range of tools necessary for the Federal government to address the particular concerns associated with the problem of trafficking in persons.

In the TVPA, Congress found that ''(a)t least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.'' Section 102(b)(1), TVPA. Congress further found that ''(t)raffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support(.)'' *Id.* at section 102(b)(5). In trafficking in persons situations, perpetrators often target individuals who are likely to be particularly vulnerable and unfamiliar with their surroundings. Congress's intentions in passing the TVPA were to further the humanitarian interests of the United States and to strengthen the ability of government officials to investigate and prosecute trafficking in persons crimes by providing temporary immigration benefits to victims.

In the TVPA, Congress provided a variety of means to combat trafficking in persons by ensuring just and effective punishment of traffickers and by protecting the victims of trafficking in persons. These means include providing immigration benefits to eligible aliens who have been victims of severe forms of trafficking in persons and, in the case of persons aged 15 and older, who comply with any reasonable request to assist law enforcement agencies in the investigation and prosecution of their traffickers. The TVPA addresses the effect of severe forms of trafficking in persons on victims, including many who may not have legal status and are reluctant to cooperate.

In order to develop a comprehensive Federal approach to identifying victims of severe forms of trafficking in persons, to provide them with benefits and services, and to enhance the Department of Justice's ability to prosecute traffickers and prevent trafficking in persons in the first place, the Service conducted a series of stakeholders' meetings with representatives from key Federal agencies; national, state, and local law enforcement associations; non-profit, community-based victim rights organizations; and other groups. Suggestions from these stakeholders were used in the drafting of this regulation. Additionally, the Department established an internal working group to oversee implementation of the new law.

In a variety of ways, the Department has attempted to protect potential victims of severe forms of trafficking in persons by encouraging witnesses to cooperate in the investigation and prosecution of traffickers. Through vigorous investigation and prosecution of severe forms of trafficking in persons, the Department hopes to dismantle trafficking in persons rings and dramatically reduce the number of trafficking victims.

The U.S. Government has already taken a number of actions to implement section 107 of the TVPA. A key initial response under the TVPA was to improve the ability of law enforcement agencies to identify victims of severe forms of trafficking in persons and to provide appropriate information and assistance to them pursuant to section 107(c) of the TVPA. The Attorney General and the Secretary of State already have issued regulations implementing the requirements for assistance to victims of severe forms of trafficking in persons under section 107(c). See 66 FR 38514 (July 24, 2001) (codified at 28 CFR part 1100).

Section 107(c) permits the Service, in cooperation with other law enforcement agencies, to arrange for the ''continued presence'' of aliens who have been the victims of severe forms of trafficking in persons and are potential witnesses to that trafficking, so that they will be available to assist with the investigation and prosecution of the traffickers. As provided in 28 CFR 1100.35, the Service will arrange for ''continued presence'' of such victims, at the request of appropriate law enforcement agencies, during the time that their presence in the United States is needed for law enforcement purposes. In most of those cases, the Service (whether through

parole or other means) will be able to grant the victims temporary work authorization during the time they remain in the United States to assist with these law enforcement efforts.

Section 107(b) of the TVPA also provides that aliens who are victims of severe forms of trafficking in persons who have been granted continued presence, or who have filed a *bona fide* application for T nonimmigrant status, also are eligible to receive certain kinds of public assistance to the same extent as refugees.

Finally, in another part of the same Act that enacted the provisions of the TVPA for victims of trafficking in persons, Congress also provided for a new U nonimmigrant status for victims of certain kinds of crimes, including crimes involving trafficking in persons. VAWA section 1513. The Department will be publishing regulations to implement the U nonimmigrant status in a separate rulemaking action.

T Nonimmigrant Status

This rule implements one aspect of these new protections for victims of severe forms of trafficking in persons, the T nonimmigrant status. Congress established this new classification, in section 107(e) of the TVPA, to create a safe haven for certain eligible victims of severe forms of trafficking in persons who are assisting law enforcement authorities in investigating and prosecuting the perpetrators of these crimes. Children who have not yet attained the age of 15 at the time of application are exempt from the requirement to comply with law enforcement requests for assistance in order to establish eligibility.

T nonimmigrant status is applicable to victims of severe forms of trafficking in persons who are physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port-of-entry thereto, on account of such trafficking in persons. Applicants for this status must demonstrate that they would suffer extreme hardship involving unusual and severe harm if they were removed from the United States and that they have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking in persons.

Principal aliens eligible for T nonimmigrant status may be granted T–1 status, which the TVPA limits to no more than 5,000 each fiscal year. In some circumstances, immediate family members of victims of severe forms of trafficking in persons also may receive a T nonimmigrant visa to accompany or to join the victim. When the Service approves a T nonimmigrant status application, it will provide a list of nongovernmental organizations to which the alien can refer regarding the alien's options while in the United States and resources available to the alien.

T nonimmigrant status allows eligible aliens to remain in the United States and grants specific nonimmigrant benefits. The T status is separate and distinct from the provision for ''continued presence'' pursuant to 28 CFR 1100.35, which is only temporary and requires that the alien depart the United States once his or her presence for purposes of the criminal investigation or prosecution is no longer required, unless the alien has some other immigration status. Those acquiring T–1 nonimmigrant status will be able to remain in the United States for a period of three years, whether or not they were granted ''continued presence.''

Unlike other provisions of section 107 of the TVPA, T–1 nonimmigrant status is limited to victims of severe forms of trafficking in persons who are physically present on account of the trafficking and can establish that they would suffer ''extreme hardship involving unusual and severe harm'' if they were removed from the United States. In view of the annual limitation imposed by Congress for T–1 status, and the standard of extreme hardship involving unusual and severe harm, the Service acknowledges that the T–1 status will not be an appropriate response with respect to many cases involving aliens who are victims of severe forms of trafficking in persons.

To best meet these goals, the Service has determined that applicants may apply individually for T–1 nonimmigrant status without requiring third party sponsorship from a law enforcement agency, as is the case for the existing S nonimmigrant status for alien witnesses and informants. See 8 CFR 214.2(t). Recognizing the importance of providing assistance to law enforcement investigations and prosecutions, however, this interim rule provides a standard form for law enforcement agencies to use to provide sufficient background information to document that the alien is a victim of a severe form of trafficking in persons and has cooperated with reasonable requests for assistance to law enforcement. Although a law enforcement endorsement will not be required, and an alien will be able to submit secondary evidence to establish these statutory requirements, the submission of this endorsement form will serve as primary evidence to satisfy these two elements and is strongly encouraged.

Aliens who have been granted T–1 status also will be able to seek derivative T status for their immediate family members who are accompanying or following to join them, if they can demonstrate that the removal of those family members from the United States (or the failure to admit the family members to the United States if they are currently abroad) would result in extreme hardship. Eligible immediate family members of the T–1 principal may receive derivative T–2 (spouse) or T–3 (child) status, and, in the case of a T–1 principal alien under the age of 21, T–4 (parent) status. The statutory numerical limitations do not apply to immediate family members classified as T nonimmigrant aliens. The Service notes that such immediate family members also may qualify for protection in appropriate cases under the regulations adopted to implement section 107(c) of the TVPA. See 28 CFR 1100.31.

Eligible victims who are granted T–1 nonimmigrant status will be issued employment authorization to assist them in finding safe, legal employment while they attempt to retake control of their lives. Aliens with derivative T–2, T–3, or T–4 status also may apply for employment authorization.

The TVPA also provides for the adjustment of status, at the Attorney General's discretion, from T nonimmigrant status to lawful permanent resident status for T nonimmigrants who: (1) Are admissible; (2) have been physically present in the United States for a continuous period of at least 3 years since the date of admission with T–1 nonimmigrant status; (3) throughout such period have been persons of good moral character; and (4) establish either (i) that during such period they have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking in persons, or (ii) that they would suffer extreme hardship involving unusual and severe harm upon removal from the United States. The provisions concerning adjustment of status will be the subject of a separate rulemaking.

The Interim Rule

To qualify for T–1 nonimmigrant status, a person must demonstrate: (1) That he or she is a victim of a severe form of trafficking in persons; (2) that he or she is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking in persons;

(3) that, if 15 years of age or older, he or she has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking in persons; and (4) that he or she would suffer extreme hardship involving unusual and severe harm if removed from the United States. The alien also must be admissible to the United States or obtain a waiver of inadmissibility from the Service. This rule addresses what the alien must show to meet each element necessary to qualify for the T nonimmigrant classification. The Service has created a new Form I–914, *Application for the T Nonimmigrant Status,* for this purpose. Form I–914 is composed of three sections: *Application for the T Nonimmigrant Status* (required); Supplement A, *Application for Immediate Family Member of T–1 Recipient;* and Supplement B, *Declaration of a Law Enforcement Officer for Victim of Trafficking in Persons.*

How Is a Victim of a Severe Form of Trafficking in Persons Defined?

Section 103 of the TVPA defines the term ''victim of a severe form of trafficking in persons.'' To be a ''victim of a severe form of trafficking in persons,'' an individual must

- Have been recruited, harbored, transported, provided, or obtained for labor or services, or the purposes of a commercial sex act; and
- There must have been some force, fraud, or coercion involved to make the victim engage in the labor or services or the commercial sex act (except that there need not be any force, fraud, or coercion in cases of commercial sex acts where the victim is under 18); and
- For situations involving labor or services, the use of force, fraud, or coercion must be for the purpose of subjecting the victim to involuntary servitude, peonage, debt bondage, or slavery.

This legislation provided the first definition under Federal law of a victim of a severe form of trafficking in persons. It builds upon the Constitutional prohibition on slavery, the existing criminal law provisions on slavery and peonage (Chapter 77 of title 18, U.S. Code, sections 1581 *et seq.*), on the case law interpreting the Constitution and these statutes (specifically *United States* v. *Kozminski,* 487 U.S. 931, 952 (1988)), and on the new criminal law prohibitions contained in the TVPA.

In order to make potential applicants for T–1 nonimmigrant status aware of the types of violations that must exist in order to meet the statutory definition of severe forms of trafficking in persons, the Service makes reference to the text of the 12 Federal criminal civil rights statutes contained within Chapter 77 of title 18 of the U.S. Code, beginning with section 1581. This set of statutes contains both preexisting and newly created trafficking in persons laws, many of which appear to constitute the crimes that Congress intended to cover in its statutory definition of severe forms of trafficking in persons. Accordingly, the definitions contained in section 214.11 reference the scope of those criminal provisions as an appropriate guide in applying the definitions of ''severe forms of trafficking in persons'' and its related terms for purposes of the T nonimmigrant status.

The statutory definition of involuntary servitude reflects the new Federal crime of ''forced labor'' contained in section 103(5) of the TVPA, and expands the definition of involuntary servitude contained in *Kozminski.* In crafting the definition in the TVPA, Congress intended to broaden the types of criminal conduct that could be labeled ''involuntary servitude.''

The legislative history of the new ''forced labor'' crime (18 U.S.C. 1589) provides helpful guidance on what types of conduct Congress intended to cover in its statutory definitions of severe trafficking in persons and, in particular, involuntary servitude:

> ''Section 1589 is intended to address the increasingly subtle methods of traffickers who place their victims in modern-day slavery, such as where traffickers threaten harm to third persons, restrain their victims without physical violence or injury, or threaten dire consequences by means other than overt violence * * * Because provisions within section 1589 only require a showing of a threat of ''serious harm,'' or of a scheme, plan, or pattern intended to cause a person to believe that such harm would occur, federal prosecutors will not have to demonstrate physical harm or threats of force against victims. The term ''serious harm'' * * * refers to a broad array of harms, including both physical and nonphysical, and section 1589's terms and provisions are intended to be construed with respect to the individual circumstances of victims that are relevant in determining whether a particular type or certain degree of harm or coercion is sufficient to maintain or obtain a victim's labor or services, including the age and background of the victims.'' 146 Cong. Rec. H8881 (daily ed. Oct. 5, 2000).

The only term within the statutory definition in section 103 of the TVPA that is not covered by Chapter 77 of title 18, U.S. Code, is the term ''debt bondage.'' According to the TVPA, ''the term ''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.'' TVPA, section 103(4).

The Service also notes that the definitions in section 103 of the TVPA are applicable not only for purposes of the T nonimmigrant status, but also for many other purposes as well under the TVPA. For example, the same definitions of ''severe forms of trafficking in persons'' and its related terms are used for purposes of:

- The provisions of section 107(c) of the TVPA and in the implementing regulations on Protection and Assistance for Victims of Trafficking adopted by the Attorney General and the Secretary of State at 66 FR 38514 (July 24, 2001) (to be codified at 28 CFR part 1100);
- The provisions for eligibility for benefits and services under section 107(b) of the TVPA;
- The annual country reports on human rights practices prepared by the Department of State under the Foreign Assistance Act of 1961, as amended by section 104 of the TVPA; and
- The minimum standards for the elimination of severe forms of trafficking in persons and the provisions to promote compliance with those minimum standards, as provided in sections 108 through 111 of the TVPA.

In providing for the new T nonimmigrant status, Congress directed the Attorney General to apply the definition of a ''victim of a severe form of trafficking in persons'' as it is defined in section 103 of the TVPA. Section 103 of the TVPA provides a common definition of the key statutory terms that are used in several different contexts in Title I of the TVPA. In view of the common usage of these definitions in section 103 for many purposes under the TVPA, the Service will interpret and apply those terms for purposes of the T nonimmigrant status with due regard for the definitions and application of these terms in 28 CFR part 1100 and the provisions of chapter 77 of title 18, United States Code.

In determining whether an applicant is a victim of a severe form of trafficking in persons, the Service will consider all credible and relevant evidence. Except in instances of sex trafficking involving minors, severe forms of trafficking in persons must involve both a particular means (force, fraud, or coercion) and a particular end (sex trafficking,

involuntary servitude, peonage, debt bondage, or slavery). It is the applicant's burden to demonstrate both elements of a severe form of trafficking in persons. For example, an adult involved in commercial sexual activity that is not induced by force, fraud, or coercion will not be considered a victim of a severe form of trafficking in persons.

When Is an Alien Physically Present in the United States on Account of Such Trafficking?

A victim of a severe form of trafficking in persons must be ''physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking.'' TVPA, section 107(e)(1)(T)(i)(II). Some traffickers arrange for entry of their victims into these jurisdictions as part of the trafficking scheme, while other traffickers prey upon aliens who are already in the United States. These aliens may have entered lawfully for a certain purpose, for instance in a student status under section 101(a)(15)(F) of the Immigration and Nationality Act (INA), or they may have entered without being admitted or paroled and are unlawfully present. The Service is interpreting the statute in light of Congressional intent to reach those aliens who are physically present under each of these circumstances if they are or were victims of severe forms of trafficking in persons occurring within those jurisdictions. The Service will take into account the circumstances relating to the alien's arrival and current presence in these jurisdictions.

As a result of this broad range of aliens who may be victims of severe forms of trafficking in persons, the Service interprets the physical presence requirement to reach those aliens who: (1) Are present because they are being held in some sort of severe form of trafficking in persons situation; (2) were recently liberated from a severe form of trafficking in persons; or (3) were subject to severe forms of trafficking in persons at some point in the past and remain present in the United States for reasons directly related to the original trafficking in persons.

If such aliens have escaped their traffickers before law enforcement became involved in the matter, they must show that they did not have a clear chance to leave the United States in the interim. The Service will consider whether an applicant had a clear chance to leave in light of the individual applicant's circumstances. Information relevant to this determination may include, but is not limited to, circumstances attributable to the trafficking in persons situation. This determination may reach both those who entered the United States lawfully and those who entered without being admitted or paroled.

The Service will consider all evidence available to determine physical presence, including requiring the alien to explain in a narrative submitted as part of Form I–914, *Application for the T Nonimmigrant Status.* This information will help Service adjudicators determine whether the alien had a clear chance to leave the United States after escaping from the trafficker, in order to determine whether an alien is present on account of trafficking.

Aliens who have traveled out of the United States and then returned will be presumed not to be here on account of trafficking in persons and will have to show that their presence here is the result of continued victimization at the hands of the traffickers or a new incident of a severe form of trafficking in persons.

It is important to note that aliens who are present in the United States without having been admitted or paroled are inadmissible, and accordingly they will have to obtain a waiver of inadmissibility in order to be eligible for T nonimmigrant status.

What Is the Difference Between Alien Smuggling and Severe Forms of Trafficking in Persons?

Federal law makes a distinction between alien smuggling—in which the smuggler arranges for an alien to enter the country illegally for any reason, including where the alien has voluntarily contracted to be smuggled—and severe forms of trafficking in persons. Unlike alien smuggling, severe forms of trafficking in persons must involve both a particular means such as the use of force, fraud, or coercion, and a particular end such as involuntary servitude or a commercial sex act (with regard to a commercial sex act, however, the use of force, fraud, or coercion is not necessary if the person induced to perform a commercial sex act is under the age of 18). Pursuant to the TVPA, victims of a severe form of trafficking in persons are persons who are recruited, harbored, transported, provided, or obtained for: (1) Labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery; or (2) the purpose of a commercial sex act in which such 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.

In most cases, aliens who are voluntarily smuggled into the United States will not be considered victims of a severe form of trafficking in persons. However, individuals who are voluntarily smuggled into the United States in order to be used for labor or services may become victims of a severe form of trafficking in persons if, for example, after arrival the smuggler uses threats of serious harm or physical restraint to force the individual into involuntary servitude, peonage, debt bondage, or slavery. Federal law prohibits forced labor regardless of the victim's initial consent to work. This distinction between alien smuggling and severe forms of trafficking in persons is consistent with the separate treatment of trafficking in persons and alien smuggling internationally.

Aliens who can establish that they are or have been a victim of a severe form of trafficking in persons, regardless of the circumstances of their arrival in the United States, may be eligible to receive various forms of assistance under sections 107(b) or (c) of the TVPA. In addition, a Federal law enforcement agency may request the Service to arrange for the alien's ''continued presence'' as provided in 28 CFR 1100.35 for purposes of the investigation and prosecution of trafficking in persons crimes.

How Is Continued Presence, Issued Under Section 107(c) of the TVPA, Related to Obtaining T–1 Status?

One of the elements an applicant for T–1 nonimmigrant status must prove is that he or she is a victim of a severe form of trafficking in persons. Documentation from the Service granting the applicant ''continued presence'' in accordance with section 107(c) of the TVPA and 28 CFR 1100.35 shall be considered as establishing victim status. Continued presence documentation shall not be valid for purposes of establishing victim status, however, if the continued presence has been revoked based on a determination that the applicant is not a victim of a severe form of trafficking in persons.

What Is a Reasonable Request for Assistance From Law Enforcement in the Investigation or Prosecution of Acts of Trafficking?

To be eligible for T nonimmigrant status, a victim of a severe form of trafficking in persons must comply with any reasonable request for assistance in the investigation or prosecution of acts of trafficking in persons (unless the victim is under the age of 15). When the

applicant submits a Law Enforcement Agency (LEA) endorsement as part of his or her application package, the LEA who requested cooperation will make the initial determination as to the cooperation of the applicant. The Service will only challenge this assertion when there is evidence that the LEA's conclusion is incorrect.

The Service interprets a ''reasonable request for assistance'' to be one made to a victim of a severe form of trafficking in persons to assist law enforcement authorities in the investigation or prosecution of acts of trafficking in persons. The Service's evaluation of the reasonableness of a request will be based on the totality of the circumstances, taking into account general law enforcement, prosecutorial, and judicial practices, the nature of the victimization, and the specific circumstances of the victim, including fear, severe traumatization (both mental and physical), and the age and maturity of young victims. Absent exceptional circumstances, it is reasonable for a law enforcement agency to ask of a victim of a severe form of trafficking in persons similar things it asks of other comparably-situated crime victims. The Service welcomes comments on how it should evaluate the reasonableness of a request for assistance from law enforcement, particularly with respect to requests made to victims who are under the age of 18.

In view of the statutory requirement for a victim of a severe form of trafficking in persons to comply with reasonable requests made by an LEA investigating or prosecuting severe forms of trafficking in persons, the victim must have had contact with a law enforcement agency regarding the incident, either by reporting the crime or by responding to inquiries from an LEA.

On the form filled out by the LEA investigator or prosecutor, Supplement B, *Declaration of Law Enforcement Officer for Victim of Trafficking in Persons*, of Form I–914, *Application for T Nonimmigrant Status*, the Service will ask for information about the victim's cooperation with that LEA. The Service also will ask the alien to provide information about his or her cooperation on Form I–914. In determining whether an alien meets this element of T–1 nonimmigrant status eligibility, the Service will look at the totality of the circumstances surrounding the alien's involvement with the law enforcement or prosecuting agency.

The alien may provide any credible evidence to meet this prong of eligibility or any other prong of eligibility. A non-exhaustive list of suggested forms of secondary evidence includes trial transcripts, court documents, police reports, news articles, and copies of reimbursement forms for travel to and from court. Under 8 CFR 103.2, affidavits are not considered primary or secondary evidence. They are another form of evidence, nonetheless. Applicants may provide their own affidavits and those from other witnesses.

If the Service has reason to believe that there is a question about the reasonableness of a request for assistance by an LEA or the applicant's compliance, and the resolution of this question is necessary for the proper adjudication of the application, the Service will contact the LEA. The Service will take all practical steps to reach an acceptable resolution with the LEA. The determination of what is a reasonable request shall be within the sole discretion of the Service.

From Whom May the Request for Law Enforcement Assistance Come?

This rule provides that any appropriate LEA with jurisdiction in the investigation or prosecution of acts of trafficking in persons may make a request for law enforcement assistance. An LEA is a Federal law enforcement or prosecuting agency, including, but not limited to, the Federal Bureau of Investigation (FBI), the Service, the United States Attorneys' Offices, the Department of Justice's Civil Rights and Criminal Divisions, the United States Marshals Service, and the Department of State's Diplomatic Security Service. While States and localities may investigate or prosecute crimes of ''trafficking in persons,'' for purposes of this rule the only agencies authorized to investigate or prosecute crimes that meet the definition under the TVPA of ''severe forms of trafficking in persons'' are those that investigate violations of the Federal offenses detailed in the TVPA. If state or local investigative or prosecuting agencies believe they have encountered a victim of a severe form of trafficking in persons, they should contact an LEA to report the crime. In this way, aliens who have only received requests to assist in the criminal investigations or prosecutions of state or local crimes also may have the opportunity to assist Federal law enforcement or prosecuting agencies and therefore meet the requirements for eligibility for T–1 nonimmigrant status under this section and the Act.

What Is the Law Enforcement Agency Endorsement?

The LEA endorsement is Supplement B, *Declaration of a Law Enforcement Officer for Victim of Trafficking in Persons*, of Form I–914, *Application for T Nonimmigrant Status*. It is issued by the authorities conducting an investigation or prosecution when they believe an individual is or has been a victim of a severe form of trafficking in persons and the victim has cooperated with any reasonable law enforcement requests. The Service has interpreted the statutory language to mean that only Federal law enforcement agencies investigating or prosecuting acts of trafficking in persons will be allowed to fill out the LEA endorsement. The Service has chosen this interpretation because severe forms of trafficking in persons are Federal crimes under the TVPA. If a state law enforcement agency believes it has encountered a victim of a severe form of trafficking in persons who would be eligible for T–1 nonimmigrant status, the state law enforcement agency or the alien should contact the local office of an LEA or the Civil Rights Division's Criminal Section. Potential victims who have not yet reported crimes to an LEA ought to contact the nearest local FBI, Service, or U.S. Attorney's office to report the trafficking in persons crime. Alternatively, the victim may contact the Department of Justice, Civil Rights Division, Trafficking in Persons and Worker Exploitation Task Force complaint line at 1–888–428–7581 to report crimes and to obtain information about LEA endorsements. It is important to recognize that an LEA, if it so desires, may only fill out an endorsement when, after a full assessment, it determines that the individual is a victim of a severe form of trafficking in persons and has complied with any reasonable request the LEA has made.

An LEA endorsement is not a mandatory part of a T–1 nonimmigrant status application. All T–1 applicants, however, are strongly encouraged to provide such an endorsement if possible. The LEA endorsement serves as primary evidence that the alien is a victim of a severe form of trafficking in persons, and has not unreasonably refused to assist in the investigation or prosecution of trafficking in persons. If the applicant chooses not to include an LEA endorsement, the Service will make an independent assessment of any credible evidence presented, in accordance with this rule, to determine if the applicant meets the cooperation with law enforcement requirement.

When Will the Service Provide Information From the Form I–914, Application for the T Nonimmigrant Status, to Other Agencies?

A victim's confidentiality and his or her safety, to the extent the law allows, will be considered when releasing information to Federal investigative agencies and/or defendants. In accordance with 42 U.S.C. 10606, Department of Justice employees will use their best efforts to see that victims of Federal crimes are accorded the rights due such victims, including the right to be treated with fairness and with respect for their dignity and privacy, and the right to be reasonably protected from accused offenders.

However, the Service may provide the information about any Federal crimes detailed to Federal investigative agencies, such as the FBI, U.S. Attorney's office, or the Department's Civil Rights or Criminal Divisions, or to the Service's Investigations unit. These contacts may be for the purpose of assessing whether an alien has complied with any reasonable request for assistance, or to promote enforcement of the Federal laws against trafficking in persons.

In addition, under established legal standards, the Department of Justice has an obligation to provide statements by witnesses and certain other documents to defendants in pending criminal proceedings. These obligations stem from constitutional, statutory, and other legal requirements that pertain to the government's duty to disclose information, including exculpatory evidence or impeachment material, to the defendant in order to prepare his or her defense. Accordingly, in any case where the Department is prosecuting a person for trafficking in persons offenses involving that victim, the Service will make appropriate arrangements with the Department of Justice component responsible for prosecution to ensure that information in the victim's application for T nonimmigrant status and other documents that fall within the scope of the Department's legal obligations will be made available on a timely basis to the Federal prosecutors.

What Happens if an Applicant Is Inadmissible Under One of the Grounds in Section 212(a) of the Immigration and Nationality Act?

A principal or derivative applicant who is or becomes inadmissible under section 212(a) of the INA will not be eligible for T nonimmigrant status unless the ground of inadmissibility is waived by the Service. If the ground of inadmissibility is one that can be waived, the alien should apply for a waiver of the grounds of inadmissibility from the Service on Form I–192, *Application for Advance Permission to Enter as Nonimmigrant (Pursuant to Section 212(d)(3) of the Immigration and Nationality Act*). Section 212(d)(3)(B) provides general authority for the Service to waive many grounds of inadmissibility for nonimmigrants. These waivers are not automatic, but may be granted in the exercise of its discretion. Form I–192 should be filed at the time of filing Form I–914.

In the TVPA, Congress recognized that victims of a severe form of trafficking in persons might need this specific relief from inadmissibility. Section 107(e)(3) of the TVPA creates additional authority for the waiver of inadmissibility, at the discretion of the Attorney General, in the case of victims of a severe form of trafficking in persons if the Attorney General considers it to be in the national interest to do so. Under new section 212(d)(13) of the INA, such victims may receive a waiver on health-related grounds (section 212(a)(1)) or on public charge grounds (section 212(a)(4)). Section 212(d)(13) of the INA also authorizes the Attorney General to waive the criminal grounds of inadmissibility in section 212(a)(2) of the INA and certain other grounds if the activities rendering the alien inadmissible were caused by or were incident to the alien's victimization.

The reference to waiver of the public charge ground should be understood in light of another section of the TVPA—section 107(b)(1)(A) and (E)—which provides that victims of severe forms of trafficking in persons who are over 18 years of age may be certified by the Department of Health and Human Services (HHS) to receive certain benefits and services ''to the same extent as an alien who is admitted to the United States as a refugee.'' Victims of a severe form of trafficking in persons under age 18 also are eligible for services to the same extent as refugees, but they do not have to be certified by HHS. Under this provision, victims may receive certain benefits and services as if they were refugees, which might include cash assistance. Refugees are provided with special humanitarian benefits because of their vulnerable circumstances, and are exempt from virtually every aspect of the public charge determination. For the purposes of receipt of public benefits, Congress has recognized that victims of severe forms of trafficking are in much the same position as refugees, and therefore has provided specific authority for the Service to exempt them from the ground of inadmissibility for aliens who are likely to become a public charge.

How Does a Victim of a Severe Form of Trafficking in Persons Apply for T–1 Nonimmigrant Status?

A victim of a severe form of trafficking in persons may apply directly to the Service for T–1 nonimmigrant status. The application requires submission of a Form I–914, a $200 filing fee (plus $50 per immediate family member) or an application for a fee waiver, a fingerprinting fee, three current identical color photographs, and evidence establishing each eligibility requirement. All necessary materials should be compiled into one application package and submitted to the Director, Vermont Service Center, 75 Lower Welden Street, St. Albans, Vermont 05479–0001.

All applicants for T nonimmigrant status must be fingerprinted for the purpose of conducting a criminal background check as part of the application process. The Service recognizes the importance of making timely determinations of *bona fide* applications in order for victims of severe forms of trafficking to receive critical health and other social services as soon as possible. After submitting an application with fee to the Service, the applicant will be notified of the proper time and location to appear for fingerprinting. In 1997, Congress created a new program that required the Service to have direct oversight of the fingerprint process and enabled the Service to add new technology for exchanging data with the FBI. As a result, the Service created the Application Support Center (ASC) program, which is currently composed of 133 offices located across the country. In addition, state-of-the-art technology and customized software have been employed at these ASCs, permitting live-scan capture of fingerprints and automated transmission of fingerprints to the FBI's Integrated Automated Fingerprint Identification System (IAFIS) electronically. As a result of these process and systems enhancements, the Service has been able to reduce the rate at which the FBI rejected these fingerprint cards from 40 percent to 3 percent, and reduced the overall FBI response time from approximately nine months to, in most cases, less than one day. The Service will continue to review fingerprint processing operational performance and build upon ongoing enhancements in applicant scheduling, live-scan biometrics capture, and automated data exchange to ensure the overall efficiency and timeliness of fingerprint

processing. As part of the forthcoming final rulemaking, the Service will consider whether any systemic issues have arisen regarding the timeliness of background checks related to the administration of this program, and consider whether any improvements need to be made by the Service to ensure timely determinations of whether an applicant has submitted a *bona fide* application.

What Are the Stages Involved With the Application Process for T Nonimmigrant Status?

There are several stages involved in the T nonimmigrant status application process: (1) The submission of an application for T–1 nonimmigrant status (which may be accompanied by applications for derivative T nonimmigrant status for immediate family members); (2) the Service's determination of whether an application for T nonimmigrant status is *bona fide*; and (3) the adjudication of the application for T nonimmigrant status. The Service will approve an application for T–1 nonimmigrant status when room is available under the cap for each fiscal year, or place the alien on the waiting list (which will be carried over to subsequent years) for the grant of a T–1 nonimmigrant status application if the cap has been reached. The cap is not affected by applications for derivative T nonimmigrant status.

Submission of an application for T–1 nonimmigrant status. In the first stage of the process, the alien submits an application for T–1 nonimmigrant status. At this stage, the victim of a severe form of trafficking in persons provides evidence sufficient to demonstrate each required element necessary for the Service to issue T–1 nonimmigrant status.

A complete application includes Form I–914, *Application for the T Nonimmigrant Status*; three identical color photographs; applicable fees or applications for fee waivers; and all evidence to fully support his or her claims to the four eligibility elements. An application also may include Supplement A, *Supplemental Application of Immediate Family Members for T–1 Recipient*, and Supplement B, *Declaration of a Law Enforcement Officer for Victim of Trafficking in Persons* of Form I–914, *Application for T Nonimmigrant Status*, and Form I–192, *Application for Advance Permission to Enter as Nonimmigrant*, for a waiver of a ground of inadmissibility, if necessary.

An Employment Authorization Document will be generated from the I–914 information. The applicant does not need to file Form I–765, *Application for Employment Authorization*, with the application package.

Determination of a bona fide application for T nonimmigrant status. The Service will review the submitted information to ensure that the application is complete and ready for adjudication, which includes that the fingerprinting and criminal background checks are completed and that the submitted information presents *prima facie* evidence for each eligibility requirement. This determination of whether there is *prima facie* evidence will be made for T–1 applications, according to the eligibility standards for that status. If the application is sufficient, the application will be determined to be a *bona fide* application for T–1 nonimmigrant status. However, if the alien is inadmissible, the Service will not consider the application to be *bona fide* unless the ground of inadmissibility is one under the circumstances described in section 212(d)(13) of the INA, as added by section 107(e) of the TVPA, or unless the Service already has granted a waiver of inadmissibility with respect to any other ground. All waivers are discretionary and require a request for a waiver. Under section 212(d)(13), however, an application can be *bona fide* before the waiver is granted. This is not the case under other grounds of inadmissibility.

The Service will not consider an application that is incomplete to be *bona fide* until the applicant submits the necessary additional evidence to establish *prima facie* eligibility for each required element of the T–1 nonimmigrant status. The Service will notify the applicant regarding the additional evidence that needs to be submitted in those circumstances, as provided in 8 CFR 103.2(b)(8).

Once an application is determined to be a *bona fide* application for T nonimmigrant status, the Service will provide written confirmation to the applicant. The Service will use various means to prevent the removal of individuals who have filed *bona fide* applications, such as deferred action, parole, and stay of removal, until the Service issues a final decision on the application. (Some victims of a severe form of trafficking in persons, however, already may have been granted ''continued presence'' as provided in section 107(c) of the TVPA and the regulation implementing it. See 66 FR 38514 (July 24, 2001) (codified at 28 CFR 1100.35).) Individuals granted deferred action, parole, or stay of removal may be granted employment authorization by filing Form I–765, *Application for Employment Authorization*, in accordance with Service policies and procedures.

Once an application for T–1 nonimmigrant status is determined to be *bona fide* by the Service, an applicant age 18 or older may apply to HHS to be certified to receive certain benefits and services to the same extent as refugees, as provided in section 107(b) of the TVPA. In order for the victim of a severe form of trafficking in persons to be eligible, HHS must certify him or her to receive such benefits and services, unless the victim is under the age of 18. The Service notes that victims under age 18 do not need to be certified, nor do they need to submit a *bona fide* application for T nonimmigrant status, in order to receive such benefits and services. To be considered a victim and therefore eligible for these benefits and services, those under 18 must be determined to have been subjected to a severe form of trafficking in persons. The Service also notes that individuals who have received ''continued presence'' under section 107(c) of the TVPA may apply to HHS to be certified.

Adjudication of applications for T nonimmigrant status. The Service has centralized the adjudication process at its Vermont Service Center. This centralization will allow adjudicators to develop expertise in handling these cases and provide for uniformity in the adjudication of these applications. If the Service finds that the alien has satisfied the requirements for T nonimmigrant status, it will either grant T nonimmigrant status or (in the case of T–1 applicants who are subject to the annual cap) place the alien on a waiting list, as discussed below.

In any case in which the Service denies an application for T nonimmigrant status, the applicant can appeal to the Administrative Appeals Office (AAO) under procedures outlined in 8 CFR 103.3.

Approval of T–1 nonimmigrant status or placement on the waiting list for the grant of T–1 nonimmigrant status. If the Service determines that there are sufficient grounds to grant T–1 nonimmigrant status, the Service will send a notice of approval to the applicant only if a T–1 nonimmigrant status number is available. When the Service grants an application for T–1 status, it will simultaneously grant employment authorization (if not already obtained).

In the event a number is not available, the Service will send the applicant a notice of placement on the waiting list.

What Will Happen if There Are More Eligible T–1 Applicants Than the Number Available for the Year?

According to the TVPA, there is a 5,000-person limit to the number of individuals who can be granted T–1 status per fiscal year (from October 1 through September 30). Once the numerical limit has been reached in a particular fiscal year, all pending and subsequently submitted applications will continue to be reviewed in the normal process to determine eligibility, but the Service will not grant T–1 nonimmigrant status prior to the beginning of the next fiscal year. Eligible applicants who are not granted T–1 status due solely to the numerical limit shall be placed on a waiting list to be maintained by the Service. In the event a number is not available, the Service will send the applicant a notice of placement on the waiting list. Applicants on the waiting list will be given priority the following fiscal year based on the date the application was properly filed. Each year, as new numbers for the T–1 nonimmigrant status become available, the Service will grant them to applicants on the waiting list.

Eligible applicants on the waiting list must be admissible at the time status is granted. Eligible applicants on the waiting list may be asked to resubmit fingerprints (and pay the appropriate fee) and photographs because of the passage of time between their submission and the date a nonimmigrant status becomes available. After the Service has granted T–1 status to applicants on the waiting list, the Service will continue to grant applications, up to the annual limit, to new applicants in the order in which each application was properly filed.

Will T–1 Applicants Be Removed From the United States While on the Waiting List?

The Service will use various means to prevent the removal of T–1 applicants on the waiting list, and their family members who are eligible for derivative T status, including its existing authority to grant deferred action, parole, and stay of removal. However, an applicant may be removed, and his or her application denied, for conduct that occurs while an alien is on the waiting list or for not disclosing relevant information at the time of filing. During this time, applicants for T status who are granted deferred action or stay of removal will not accrue unlawful presence under section 212(a)(6) or (9) of the INA. Applicants also will be able to renew their work authorization documents, as needed.

While on the waiting list, the T–1 applicant will remain in his or her current immigration status (deferred action, parole, stay of removal, or other immigration status) and will retain eligibility for employment authorization, subject to any conditions placed on that authorization, until new numbers for T–1 nonimmigrant status become available in a subsequent fiscal year.

How Will the Revocation of a T–1 Status Affect the Annual Cap?

The revocation of a T–1 status will have no effect on the annual cap. Once a T–1 status is granted, it will be deemed to have been used and cannot be used again. The Service considered re-using the T–1 status but determined it would be infeasible to track, especially if the T–1 status were granted several years ago and the individual were waiting for adjustment to lawful permanent resident status. The Service concluded that tracking when T–1 classifications are granted and then trying to backfill the numbers with additional grants or provide grants above the annual cap would put undue burden on the Service.

When Can a T–1 Nonimmigrant Apply for Derivative Status for Family Members?

An applicant for T–1 status may apply for derivative T nonimmigrant status, at the time of the original T–1 application, for his or her spouse (T–2) or child (T–3), or in the case of a child who is applying for T–1 status, the child's parents (T–4). An applicant for T–1 status or an alien who has been granted T–1 nonimmigrant status also may apply at a later date by filing a separate Form I–914 and attachments. Applications for derivative status must be accompanied by the required attachments, such as fingerprints, photographs, and fees.

How Will the Service Adjudicate Applications for Derivative Status of Family Members of a Victim of a Severe Form of Trafficking in Persons?

The annual limitation does not apply to immediate family members who are granted derivative T–2, T–3, or T–4 status. However, the Service will not grant an application for derivative T status until the principal alien has been granted T–1 status. Once the principal alien is granted T–1 nonimmigrant status, eligible family members who receive a derivative status can apply for employment authorization on Form I–765, and, if granted, receive work authorization.

What Is the Duration of the T Nonimmigrant Status?

T nonimmigrant status will be granted for 3 years. This period of stay is timed to coordinate with the separate statutory authority for adjustment of status. An alien in T nonimmigrant status is eligible to apply for adjustment of status to that of a legal permanent resident under the criteria listed in section 107(f) of the TVPA and forthcoming Service regulations. Should an alien with T nonimmigrant status leave the United States during the 3 years prior to applying for lawful permanent residence, he or she must file a Form I–131, *Application for Travel Document*, before departing the United States to obtain advanced parole in order to return to the United States. This requirement is true for T–1 principal aliens as well as family members in derivative T–2, T–3, or T–4 status.

The T nonimmigrant status is not renewable. If the alien properly files for adjustment of status to that of a person admitted for permanent residence within the 90-day period immediately preceding the third anniversary of the date of the approval of the alien's Form I–914, the alien shall continue to be in a T nonimmigrant status with all the rights, privileges, and responsibilities provided to a person possessing such status, including employment authorization, until such time as a final decision is rendered on the alien's adjustment of status. At the time an alien is approved for T nonimmigrant status, the Service shall notify the alien that his or her nonimmigrant status will expire in 3 years from the date of the approval of the alien's Form I–914, and that if the alien wishes to apply to adjust status, the alien must apply within the 90-day period immediately preceding the expiration of T nonimmigrant status.

What Is the Fee for an Application for T Nonimmigrant Status?

In the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1989, Pub. L. 100–459, Sec. 209, 102 Stat. 2186, 2203 (1988), Congress mandated that the Service prescribe and collect fees to recover the cost of providing certain immigration and naturalization benefits. Congress has not provided appropriated funds to pay for nonimmigrant classification programs.

The Service has determined that the fee for filing Form I–914, *Application for the T Nonimmigrant Status*, is $200. An applicant for T–1 status also will be

able to request derivative T nonimmigrant status for eligible family members for an additional fee of $50 for each person included in the same application, up to a maximum amount of $400.

Applications for immediate family members filed subsequent to the T–1 principal's application will be considered a new filing and will require the full fee of $200 for the first family member and $50 for each additional family member, up to a maximum amount of $400.

Are Fee Waivers Available?

The Service recognizes that many applicants for T nonimmigrant status may be unable to pay the full application fee. Applicants who are financially unable to pay the application fee may submit an application for a fee waiver, as outlined in 28 CFR 103.7(c). The granting of a fee waiver will be at the sole discretion of the Service. Further guidance on fee waivers can be found on the INS Web site currently at *http://www.ins.gov/graphics/formsfee/forms/index.htm#waiver.*

In addition to the filing fee for the Form I–914, applicants will have to submit the established fee for fingerprinting services for each person between the ages of 14 and 79 years inclusive with each application. This fee is currently $25 per person, and is not subject to a fee waiver. The Service has published a final rule to increase this amount to $50 per person, which takes effect February 19, 2002. See 66 FR 65811 (Dec. 21, 2001) (final rule adjusting fees for the Immigration Examinations Fee Account).

How Did the Service Arrive at the Fee Amount?

The Service arrived at the fee amount by comparing the process requirements of the new I–914 with existing adjudication procedures. The adjudication of the I–914 will be very similar to that of the I–360, *Petition for a Special Immigrant.* The application also will be used to generate an Employment Authorization Document (EAD), taking the place of a separate I–765, *Application for Employment Authorization.* The fee for the I–360 is $110, and the fee for the I–765 is $100. These fees are scheduled to be increased to $130 and $120 respectively on February 19, 2002. The sum of the two fees ($250) is reduced to $240 to reflect that only one form needs handling and tracking. Furthermore, there is no separate adjudication required for employment authorization for T principals, who are authorized to work incident to status. As a result, this fee has been further reduced to reflect saved adjudication expenses and to take into account that only the T principal's EAD is incident to status. Based on these calculations, the Service set the fee at $200. The addition of $50 for each additional person included on the form was based on a comparison of the I–914 process to the processing of Form I–687, *Application for Status as Temporary Resident,* which also requires an additional fee of $50 per additional person on the application. The Service conducts evaluations of the required fees every two years to ensure that they are fair and accurate. The fee charged for the Form I–914 will be reviewed periodically and adjusted, as appropriate.

May T–1 Applicants and Applicants for T Derivative Status Apply From a Foreign Country?

Applicants for T–1 status must be physically present in the United States at the time of application. However, the T–1 principal alien may apply to the Service for derivative T nonimmigrant status on behalf of immediate family members who are following to join the T–1 principal. The Service may approve applications for T–2, T–3, or T–4 status for eligible immediate family members if they are admissible to the United States and can meet the requirement to demonstrate extreme hardship. If the Service grants the application for derivative T nonimmigrant status for aliens who are currently abroad, the Service will notify the appropriate consular office and make arrangements for the issuance of the necessary visas for admission of those eligible family members.

Can Victims of a Severe Form of Trafficking in Persons That Occurred Prior to the Enactment of the TVPA Apply for a T Nonimmigrant Classification?

Yes. Victims of a severe form of trafficking in persons whose victimization occurred prior to enactment of the TVPA on October 28, 2000, may file a completed application. The Service recommends that victims file applications as soon as possible because delays could result in difficulty in establishing statutory eligibility requirements. Section 214.11(d)(4) of this rule provides that, if the victimization occurred prior to the enactment of the TVPA, the alien must file the application for T–1 status within one year of the effective date of this rule, except in exceptional circumstances or within one year after the victim reaches his or her 21st birthday, whichever comes later.

Does Applying for T Nonimmigrant Status Prevent the Applicant From Applying for Other Types of Immigration Benefits?

No. An alien may apply for any and all immigration benefits for which the alien may be eligible. However, an alien may not hold more than one nonimmigrant status at a time. Nothing in this regulation or in the TVPA limits a qualified applicant from seeking other immigration benefits while pursuing T status. In addition, aliens granted continued presence may be eligible to receive certain benefits and services authorized by section 107(b)(1) of the TVPA.

Can a Victim Who Is in Exclusion, Deportation, or Removal Proceedings Before an Immigration Judge or the Board of Immigration Appeals (Board) Apply for T Nonimmigrant Status?

Jurisdiction over all applications for T nonimmigrant status rests with the Service. However, a victim of a severe form of trafficking in persons who is currently in proceedings before an immigration judge or the Board may request Service counsel to consent to having the proceedings administratively closed (or that a motion to reopen or motion to reconsider be indefinitely continued) in order to allow the alien to pursue an application for T nonimmigrant status with the Service.

As noted above, in order to be eligible for T nonimmigrant status, the alien must demonstrate that he or she is admissible to the United States, or must obtain a waiver of inadmissibility from the Service. An application from an alien who is inadmissible on grounds other than under the circumstances specified in section 212(d)(13) of the INA will not be considered to be *bona fide* unless the Service has granted a waiver of those other grounds. Accordingly, the Service will consider consenting to the administrative closure of the immigration proceedings for the purpose of filing an application for T nonimmigrant status only if there is a good reason to believe that the alien will be able to satisfy the eligibility requirements for the T status, including admissibility. (The Service notes, however, that it may arrange for the continued presence in the United States of a victim of a severe form of trafficking in persons, pursuant to 28 CFR 1100.35, during such time as an LEA has requested the alien's presence in the United States for purposes of investigating and prosecuting acts of severe forms of trafficking in persons. The Service will not act to remove an alien from the United States until the

law enforcement need for the alien's continued presence has come to an end or the alien has violated the terms of the continued presence.)

The Service also acknowledges that, in some cases, an alien who is in immigration proceedings may be able to file a *bona fide* application for T nonimmigrant status. With respect to the medical and public charge grounds of inadmissibility, and certain other grounds of inadmissibility that were caused by or are incident to the alien's victimization, section 212(d)(13) of the INA provides additional authority for the waiver of these grounds in the case of applicants for T nonimmigrant status. For example, a victim of a severe form of trafficking in persons who had been forced into prostitution may well be able to make a *bona fide* application for T–1 status even though the alien has been placed into removal proceedings on grounds relating to those prostitution activities.

With the concurrence of Service counsel, if the alien appears eligible for T nonimmigrant status, the immigration judge or the Board, whichever has jurisdiction, may administratively close the proceeding or continue a motion to reopen or motion to reconsider indefinitely. In the event the Service subsequently denies the alien's application for T nonimmigrant status, the Service will recommence proceedings that have been administratively closed by filing a motion to re-calendar with the Immigration Court or a motion to reinstate with the Board.

Can a Victim of Trafficking in Persons With a Final Order of Exclusion, Deportation, or Removal Apply for T Nonimmigrant Status?

An alien who is the subject of a final order is not precluded from filing an application for T nonimmigrant status directly with the Service. In order to be eligible, an applicant for T nonimmigrant status must be admissible to the United States, and the Service notes that few aliens who are the subject of a final order of exclusion, deportation or removal will be able to satisfy that requirement. Thus, in general, the filing of an application for T nonimmigrant status will have no effect on the status of an alien who is subject to a final order.

In those cases where the only basis for the final order of removal is one of the grounds of inadmissibility described in section 212(d)(13) of the INA, the alien may be able to file a meritorious application for T nonimmigrant status. If the Service determines, as provided in this rule, that an alien's application for T status meets the requirements for a *bona fide* application, the Service will automatically stay execution of the final order of deportation, exclusion, or removal. Such a stay remains in effect until a final decision is made on the T application. If the T application is denied, the stay of the final order is deemed lifted as of the date of such a denial, without regard to whether the alien appeals the denial. However, the alien may apply for a discretionary stay of removal from the Service as provided in § 241.6(a).

If the application for T nonimmigrant status is granted, the final order shall be deemed canceled by operation of law as of the date of the approval.

What Happens to Victims of Severe Forms of Trafficking in Persons Arriving at a Port of Entry Who Are Subject to Expedited Removal?

Expedited removal applies to an ''arriving alien'', as defined in 8 CFR 1.1(q), when the alien is inadmissible pursuant to section 212(a)(6)(C) or 212(a)(7) of the INA. Current Service procedures protect and provide services to victims of a severe form of trafficking in persons when Federal law enforcement officials encounter such victims, including those aliens arriving at ports of entry. 28 CFR 1100.31. In addition, the Service is developing screening procedures to ensure that arriving aliens who are subject to the statutory provisions for expedited removal at ports of entry will, when applicable, be considered for T nonimmigrant status. An alien subject to expedited removal who expresses that he or she is a victim of a severe form of trafficking in persons will be interviewed by a Service officer immediately to determine whether there is reason to believe the individual is such a victim. Following such a determination, the victim will be referred to a District Office and will be interviewed by a Service officer responsible for investigating trafficking in persons within 7 days of arrival to determine whether the individual has a credible claim to victimization. The Service may inform an LEA that also investigates or prosecutes trafficking in persons about the individual's claim. If the alien has a credible claim to victimization, he or she will be given the opportunity to submit an application for T status pursuant to section 101(a)(15)(T) of the INA and any other benefit or protection for which they may be eligible. An arriving alien determined not to have a credible claim to being a victim of a severe form of trafficking in persons in the United States will be subject to expedited removal in accordance with Service policy.

Regulatory Procedures

Good Cause Exception

This interim rule is effective 30 days from the date of publication. The Service invites post-promulgation comments and will address any such comments in a final rule. The Department finds that good cause exists for adopting this rule without the prior notice and comment period ordinarily required by 5 U.S.C. 553(b), because, in light of the public safety implications of the rule, giving prior notice and opportunity for comment would be contrary to the public interest.

In passing the TVPA, Congress intended to create a broad range of tools to be used by the Federal government to combat the serious and immediate problem of trafficking in persons. The provisions of the TVPA address the effect of severe forms of trafficking in persons on victims, including many who may not have legal status and are reluctant to cooperate. In trafficking in persons situations, perpetrators often target individuals who are likely to be particularly vulnerable and unfamiliar with their surroundings. The TVPA strengthens the ability of government officials to investigate and prosecute trafficking in persons crimes by providing for temporary immigration benefits to victims of severe forms of trafficking in persons. This interim rule implements a legal nonimmigrant immigration status for eligible victims who have not refused any reasonable request to assist in the investigation or prosecution of a crime and can demonstrate that they would suffer extreme hardship involving severe and unusual harm if removed from the United States. Under section 107(b) of the TVPA, the filing of a *bona fide* application for T nonimmigrant status provides a basis to seek certification of the alien for purposes of eligibility for certain public benefits. In addition, this regulation provides certain victims with work authorization so that they may seek lawful employment. Without the prompt promulgation of this rule, victims of severe forms of trafficking in persons might continue to be victimized for fear of coming forward, thus hindering the ability of law enforcement to investigate and prosecute cases and preventing victims from obtaining critical assistance and benefits.

The issuance of these regulations as an interim rule effective 30 days after publication will allow victims to receive needed benefits and assistance as soon as possible. The 30-day delay in the

effective date will provide a brief interim period in which forms, informational brochures, and other guidance will be made available to Federal, state, tribal and local law enforcement officers and officials as well as non-profit victims rights and services groups. Because prior notice and comment with respect to this interim rule is contrary to the public interest, given the public safety implications of this rule, there is ''good cause'' under 5 U.S.C. 553 to make this rule effective March 4, 2002.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Attorney General, by approving this regulation, certifies that this rule will not have a significant economic impact on a substantial number of small entities. The Attorney General has reviewed this regulation in light of its potential impact on small businesses. The businesses that would be most significantly affected by this rule would be those in which the illegal act of trafficking in persons contributed to, or composed the majority of, their workforce. The human rights and criminal issues associated with such trafficking in persons are seen as more significant than the impact on small businesses that are dependent on illegal or coerced labor in violation of United States law.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is considered by the Department of Justice to be a significant regulatory action under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

Paperwork Reduction Act

The information collection requirements contained in this rule have been cleared by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. Clearance numbers for these collections are contained in 8 CFR 299.5, Display Control Numbers, and are noted herein. Form I–131, *Application for Travel Document*, OMB Control Number 1115–0062; Form I–192, *Application for Advance Permission to Enter as Nonimmigrant*, OMB Control Number 1115–0028; Form I–765, *Application for Employment Authorization*, OMB Control Number 1115–0163. In addition, one new Service form, Form I–914, *Application for T Nonimmigrant Status*, has received clearance from OMB and was assigned OMB Control Number 1115–0246.

Executive Order 13132

This rule will not have a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement.

Executive Order 12988 Civil Justice Reform

This final rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 212

Administrative practice and procedure, Aliens, Immigration, Passports and visas, Reporting and recordkeeping requirements.

8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange programs, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students, Victims.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

1. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1304, 1356; 31 U.S.C. 9701; E.O 12356, 47 FR 14874, 15557, 3 CFR, 1982 Comp., p. 166; 8 CFR part 2.

2. Section 103.1 is amended by:

a. Revising paragraph (f)(3))(iii)(W);

b. Removing the word ''and'' at the end of paragraph (f)(3)(iii)(MM);

c. Removing the period at the end of paragraph (f)(3)(iii)(NN) and adding ''; and'' in its place; and by

d. Adding a new paragraph (f)(3)(iii)(OO) to read as follows:

§ 103.1 Delegation of authority.

* * * * *

(f) * * *

(3) * * *

(iii) * * *

(W) Revoking approval of certain applications, as provided in §§ 214.2, 214.6, and 214.11 of this chapter;

* * * * *

(OO) Applications for T nonimmigrant status under § 214.11 of this chapter.

* * * * *

3. Section 103.7(b)(1) is amended by adding, in proper alpha/numeric sequence, a new Form ''I–914,'' to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

Form I–914. For filing an application to classify an alien as a nonimmigrant under section 101(a)(15)(T) of the Act (victims of a severe form of trafficking in persons and their immediate family

members)—$200. For each immediate family member included on the same application, an additional fee of $50 per person, up to a maximum amount payable per application of $400.

* * * * *

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

4. The authority citation for part 212 continues to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1225, 1226, 1227; 8 CFR part 2.

5. Section 212.1 is amended by revising paragraph (g) and adding a new paragraph (o), to read as follows:

§ 212.1 Documentary requirements for nonimmigrants.

* * * * *

(g) *Unforeseen emergency.* A nonimmigrant seeking admission to the United States must present an unexpired visa and a passport valid for the amount of time set forth in section 212(a)(7)(B) of the Act, or a valid border crossing identification card at the time of application for admission, unless the nonimmigrant satisfies the requirements described in one or more of the paragraphs (a) through (f), (i), or (o) of this section. Upon a nonimmigrant's application on Form I–193, a district director at a port of entry may, in the exercise of his or her discretion, on a case-by-case basis, waive the documentary requirements, if satisfied that the nonimmigrant cannot present the required documents because of an unforeseen emergency. The district director or the Deputy Commissioner may at any time revoke a waiver previously authorized pursuant to this paragraph and notify the nonimmigrant in writing to that effect.

* * * * *

(o) *Alien in T–2 through T–4 classification.* Individuals seeking T–2 through T–4 nonimmigrant status may avail themselves of the provisions of paragraph (g) of this section, except that the authority to waive documentary requirements resides with the Service Center.

6. Section 212.16 is added, to read as follows:

§ 212.16 Applications for exercise of discretion relating to T nonimmigrant status.

(a) *Filing the waiver application.* An alien applying for the exercise of discretion under section 212(d)(13) or (d)(3)(B) of the Act (waivers of inadmissibility) in connection with an application for T nonimmigrant status shall submit Form I–192, with the appropriate fee in accordance with § 103.7(b)(1) of this chapter or an application for a fee waiver, to the Service with the completed Form I–914 application package for status under section 101(a)(15)(T)(i) of the Act.

(b) *Treatment of waiver application.* (1) The Service shall determine whether a ground of inadmissibility exists with respect to the alien applying for T nonimmigrant status. If a ground of inadmissibility is found, the Service shall determine if it is in the national interest to exercise discretion to waive the ground of inadmissibility, except for grounds of inadmissibility based upon sections 212(a)(3), 212(a)(10)(C) and 212(a)(10)(E) of the Act, which the Commissioner may not waive. Special consideration will be given to the granting of a waiver of a ground of inadmissibility where the activities rendering the alien inadmissible were caused by or incident to the victimization described under section 101(a)(15)(T)(i) of the Act.

(2) In the case of applicants inadmissible on criminal and related grounds under section 212(a)(2) of the Act, the Service will only exercise its discretion in exceptional cases unless the criminal activities rendering the alien inadmissible were caused by or were incident to the victimization described under section 101(a)(15)(T)(i) of the Act.

(3) An application for waiver of a ground of inadmissibility for T nonimmigrant status (other than under section 212(a)(6) of the Act) will be granted only in exceptional cases when the ground of inadmissibility would prevent or limit the ability of the applicant to adjust to permanent resident status after the conclusion of 3 years.

(4) The Service shall have sole discretion to grant or deny a waiver, and there shall be no appeal of a decision to deny a waiver. However, nothing in this paragraph (b) is intended to prevent an applicant from re-filing a request for a waiver of a ground of inadmissibility in appropriate cases.

(c) *Incident to victimization.* When an applicant for status under section 101(a)(15)(T) of the Act seeks a waiver of a ground of inadmissibility under section 212(d)(13) of the Act on grounds other than those described in sections 212(a)(1) and (a)(4) of the Act, the applicant must establish that the activities rendering him or her inadmissible were caused by, or were incident to, the victimization described in section 101(a)(15)(T)(i)(I) of the Act.

(d) *Revocation.* The Commissioner may at any time revoke a waiver previously authorized under section 212(d) of the Act. Under no circumstances shall the alien or any party acting on his or her behalf have a right to appeal from a decision to revoke a waiver.

PART 214—NONIMMIGRANT CLASSES

7. The authority citation for part 214 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1101 note, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; Section 643 of Pub. L. 104–208, 110 Stat. 3009–708; Pub. L. 106–386, 114 Stat. 1477–1480; Section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 8 CFR part 2.

8. Section 214.1 is amended by:

a. Removing the ''and'' at the end of paragraph (a)(1)(vi);

b. Removing the period at the end of paragraph (a)(1)(vii) and adding '';'' in its place;

c. Adding paragraph (a)(1)(viii); and by

d. Adding in proper numeric/alphabetical sequence in paragraph (a)(2) the classification designations, to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

(a) * * *

(1) * * *

(viii) Section 101(a)(15)(T)(ii) is divided into (T)(ii), (T)(iii) and (T)(iv) for the spouse, child, and parent, respectively, of a nonimmigrant classified under section 101(a)(15)(T)(i); and

(2) * * *

* * * * *

101(a)(15)(T)(i)—T–1
101(a)(15)(T)(ii)—T–2
101(a)(15)(T)(iii)—T–3
101(a)(15)(T)(iv)—T–4

* * * * *

9. A new § 214.11 is added to read as follows:

§ 214.11 Alien victims of severe forms of trafficking in persons.

(a) *Definitions.* The Service shall apply the following definitions as provided in sections 103 and 107(e) of the Trafficking Victims Protection Act (TVPA) with due regard for the definitions and application of these terms in 28 CFR part 1100 and the provisions of chapter 77 of title 18, United States Code:

Bona fide application means an application for T–1 nonimmigrant status

as to which, after initial review, the Service has determined that there appears to be no instance of fraud in the application, the application is complete, properly filed, contains an LEA endorsement or credible secondary evidence, includes completed fingerprint and background checks, and presents *prima facie* evidence to show eligibility for T nonimmigrant status, including admissibility.

Child means a person described as such in section 101(b)(1) of the Act.

Coercion means 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.

Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

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.

Immediate family member means the spouse or a child of a victim of a severe form of trafficking in persons, and, in the case of a victim of a severe form of trafficking in persons who is under 21 years of age, a parent of the victim.

Involuntary servitude means 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 legal process. Accordingly, involuntary servitude includes ''a condition of servitude in which the victim is forced to work for the defendant by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through law or the legal process. This definition encompasses those cases in which the defendant holds the victim in servitude by placing the victim in fear of such physical restraint or injury or legal coercion.'' (*United States* v. *Kozminski,* 487 U.S. 931, 952 (1988)).

Law Enforcement Agency (LEA) means any Federal law enforcement agency that has the responsibility and authority for the detection, investigation, or prosecution of severe forms of trafficking in persons. LEAs include the following components of the Department of Justice: the United States Attorneys' Offices, the Civil Rights and Criminal Divisions, the Federal Bureau of Investigation (FBI), the Immigration and Naturalization Service (Service), and the United States Marshals Service. The Diplomatic Security Service, Department of State, also is an LEA.

Law Enforcement Agency (LEA) endorsement means Supplement B, *Declaration of Law Enforcement Officer for Victim of Trafficking in Persons* of Form I–914, *Application for T Nonimmigrant Status.*

Peonage means a status or condition of involuntary servitude based upon real or alleged indebtedness.

Reasonable request for assistance means a reasonable request made by a law enforcement officer or prosecutor to a victim of a severe form of trafficking in persons to assist law enforcement authorities in the investigation or prosecution of the acts of trafficking in persons. The ''reasonableness'' of the request depends on the totality of the circumstances taking into account general law enforcement and prosecutorial practices, the nature of the victimization, and the specific circumstances of the victim, including fear, severe traumatization (both mental and physical), and the age and maturity of young victims.

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.

Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

TVPA means the Trafficking Victims Protection Act of 2000, Division A of the VTVPA, Pub. L. 106–386.

United States means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, and the United States Virgin Islands.

Victim of a severe form of trafficking in persons means an alien who is or has been subject to a severe form of trafficking in persons, as defined in section 103 of the VTVPA and in this section.

VTVPA means the Victims of Trafficking and Violence Protection Act of 2000, Pub. L. 106–386.

(b) *Eligibility.* Under section 101(a)(15)(T)(i) of the Act, and subject to section 214(n) of the Act, the Service may classify an alien, if otherwise admissible, as a T–1 nonimmigrant if the alien demonstrates that he or she:

(1) Is or has been a victim of a severe form of trafficking in persons;

(2) Is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port-of-entry thereto, on account of such trafficking in persons;

(3) Either:

(i) Has complied with any reasonable request for assistance in the investigation or prosecution of acts of such trafficking in persons, or

(ii) Is less than 15 years of age; and

(4) Would suffer extreme hardship involving unusual and severe harm upon removal, as described in paragraph (i) of this section.

(c) *Aliens ineligible for T nonimmigrant status.* No alien, otherwise admissible, shall be eligible to receive a T nonimmigrant status under section 101(a)(15)(T) of the Act if there is substantial reason to believe that the alien has committed an act of a severe form of trafficking in persons.

(d) *Application procedures for T status.*

(1) *Filing an application.* An applicant seeking T nonimmigrant status shall submit, by mail, a complete application package containing Form I–914, *Application for T Nonimmigrant Status,* along with all necessary supporting documentation, to the Service.

(2) *Contents of the application package.* In addition to Form I–914, an application package must include the following:

(i) The proper fee for Form I–914 as provided in § 103.7(b)(1) of this chapter, or an application for a fee waiver as provided in § 103.7(c) of this chapter;

(ii) Three current photographs;

(iii) The fingerprint fee as provided in § 103.7(b)(1) of this chapter;

(iv) Evidence demonstrating that the applicant is a victim of a severe form of trafficking in persons as set forth in paragraph (f) of this section;

(v) Evidence that the alien is physically present in the United States on account of a severe form of trafficking in persons as set forth in paragraph (g) of this section;

(vi) Evidence that the applicant has complied with any reasonable request for assistance in the investigation or prosecution of acts of severe forms of trafficking in persons, as set forth in paragraph (h) of this section, or has not attained 15 years of age; and

(vii) Evidence that the applicant would suffer extreme hardship involving unusual and severe harm if he

or she were removed from the United States, as set forth in paragraph (i) of this section.

(3) *Evidentiary standards.* The applicant may submit any credible evidence relevant to the essential elements of the T nonimmigrant status. Original documents or copies may be submitted as set forth in § 103.2(b)(4) and (b)(5) of this chapter. Any document containing text in a foreign language shall be submitted in accordance with § 103.2(b)(3) of this chapter.

(4) *Filing deadline in cases in which victimization occurred prior to October 28, 2000.* Victims of a severe form of trafficking in persons whose victimization occurred prior to October 28, 2000 must file a completed application within one (1) year of January 31, 2002 in order to be eligible to receive T–1 nonimmigrant status. If the victimization occurred prior to October 28, 2000, an alien who was a child at the time he or she was a victim of a severe form of trafficking in persons must file a T status application within one (1) year of his or her 21st birthday, or one (1) year of January 31, 2002, whichever is later. For purposes of determining the filing deadline, an act of severe form of trafficking in persons will be deemed to have occurred on the last day in which an act constituting an element of a severe form of trafficking in persons, as defined in paragraph (a) of this section, occurred. If the applicant misses the deadline, he or she must show that exceptional circumstances prevented him or her from filing in a timely manner. Exceptional circumstances may include severe trauma, either psychological or physical, that prevented the victim from applying within the allotted time.

(5) *Fingerprint procedure.* All applicants for T nonimmigrant status must be fingerprinted for the purpose of conducting a criminal background check in accordance with the process and procedures described in § 103.2(e) of this chapter. After submitting an application with fee to the Service, the applicant will be notified of the proper time and location to appear for fingerprinting.

(6) *Personal interview.* After the filing of an application for T nonimmigrant status, the Service may require an applicant to participate in a personal interview. The necessity of an interview is to be determined solely by the Service. All interviews will be conducted in person at a Service-designated location. Every effort will be made to schedule the interview in a location convenient to the applicant.

(7) *Failure to appear for an interview or failure to follow fingerprinting requirements.*

(i) Failure to appear for a scheduled interview without prior authorization or to comply with fingerprint processing requirements may result in the denial of the application.

(ii) Failure to appear shall be excused if the notice of the interview or fingerprint appointment was not mailed to the applicant's current address and such address had been provided to the Service unless the Service determines that the applicant received reasonable notice of the appointment. The applicant must notify the Service of any change of address in accordance with § 265.1 of this chapter prior to the date on which the notice of the interview or fingerprint appointment was mailed to the applicant.

(iii) Failure to appear at the interview or fingerprint appointment may be excused, at the discretion of the Service, if the applicant promptly contacts the Service and demonstrates that such failure to appear was the result of exceptional circumstances.

(8) *Aliens in pending immigration proceedings.* Individuals who believe they are victims of severe forms of trafficking in persons and who are in pending immigration proceedings must inform the Service if they intend to apply for T nonimmigrant status under this section. With the concurrence of Service counsel, a victim of a severe form of trafficking in persons in proceedings before an immigration judge or the Board of Immigration Appeals (Board) may request that the proceedings be administratively closed (or that a motion to reopen or motion to reconsider be indefinitely continued) in order to allow the alien to pursue an application for T nonimmigrant status with the Service. If the alien appears eligible for T nonimmigrant status, the immigration judge or the Board, whichever has jurisdiction, may grant such a request to administratively close the proceeding or continue a motion to reopen or motion to reconsider indefinitely. In the event the Service finds an alien ineligible for T–1 nonimmigrant status, the Service may recommence proceedings that have been administratively closed by filing a motion to re-calendar with the immigration court or a motion to reinstate with the Board. If the alien is in Service custody pending the completion of immigration proceedings, the Service may continue to detain the alien until a decision has been rendered on the application. An alien who is in custody and requests bond or a bond redetermination will be governed by the provisions of part 236 of this chapter.

(9) *T applicants with final orders of exclusion, deportation or removal.* An alien who is the subject of a final order is not precluded from filing an application for T–1 nonimmigrant status directly with the Service. The filing of an application for T nonimmigrant status has no effect on the Service's execution of a final order, although the alien may file a request for stay of removal pursuant to § 241.6(a) of this chapter. However, if the Service subsequently determines, under the procedures of this section, that the application is *bona fide,* the Service will automatically stay execution of the final order of deportation, exclusion, or removal, and the stay will remain in effect until a final decision is made on the T–1 application. The time during which such a stay is in effect shall not be counted in determining the reasonableness of the duration of the alien's continued detention under the standards of § 241.4 of this chapter. If the T–1 application is denied, the stay of the final order is deemed lifted as of the date of such denial, without regard to whether the alien appeals the decision. If the Service grants an application for T nonimmigrant status, the final order shall be deemed canceled by operation of law as of the date of the approval.

(e) *Dissemination of information.* In appropriate cases, and in accordance with Department of Justice policies, the Service shall make information from applications for T–1 nonimmigrant status available to other Law Enforcement Agencies (LEAs) with the authority to detect, investigate, or prosecute severe forms of trafficking in persons. The Service shall coordinate with the appropriate Department of Justice component responsible for prosecution in all cases where there is a current or impending prosecution of any defendants who may be charged with severe forms of trafficking in persons crimes in connection with the victimization of the applicant to ensure that the Department of Justice component responsible for prosecution has access to all witness statements provided by the applicant in connection with the application for T–1 nonimmigrant status, and any other documents needed to facilitate investigation or prosecution of such severe forms of trafficking in persons offenses.

(f) *Evidence demonstrating that the applicant is a victim of a severe form of trafficking in persons.* The applicant must submit evidence that fully establishes eligibility for each element

of the T nonimmigrant status to the satisfaction of the Attorney General. First, an alien must demonstrate that he or she is a victim of a severe form of trafficking in persons. The applicant may satisfy this requirement either by submitting an LEA endorsement, by demonstrating that the Service previously has arranged for the alien's continued presence under 28 CFR 1100.35, or by submitting sufficient credible secondary evidence, describing the nature and scope of any force, fraud, or coercion used against the victim (this showing is not necessary if the person induced to perform a commercial sex act is under the age of 18). An application must contain a statement by the applicant describing the facts of his or her victimization. In determining whether an applicant is a victim of a severe form of trafficking in persons, the Service will consider all credible and relevant evidence.

(1) *Law Enforcement Agency endorsement.* An LEA endorsement is not required. However, if provided, it must be submitted by an appropriate law enforcement official on Supplement B, *Declaration of Law Enforcement Officer for Victim of Trafficking in Persons,* of Form I–914. The LEA endorsement must be filled out completely in accordance with the instructions contained on the form and must attach the results of any name or database inquiry performed. In order to provide persuasive evidence, the LEA endorsement must contain a description of the victimization upon which the application is based (including the dates the severe forms of trafficking in persons and victimization occurred), and be signed by a supervising official responsible for the investigation or prosecution of severe forms of trafficking in persons. The LEA endorsement must address whether the victim had been recruited, harbored, transported, provided, or obtained specifically for either labor or services, or for the purposes of a commercial sex act. The traffickers must have used force, fraud, or coercion to make the victim engage in the intended labor or services, or (for those 18 or older) the intended commercial sex act. The situations involving labor or services must rise to the level of involuntary servitude, peonage, debt bondage, or slavery. The decision of whether or not to complete an LEA endorsement for an applicant shall be at the discretion of the LEA.

(2) *Primary evidence of victim status.* The Service will consider an LEA endorsement as primary evidence that the applicant has been the victim of a severe form of trafficking in persons provided that the details contained in the endorsement meet the definition of a severe form of trafficking in persons under this section. In the alternative, documentation from the Service granting the applicant continued presence in accordance with 28 CFR 1100.35 will be considered as primary evidence that the applicant has been the victim of a severe form of trafficking in persons, unless the Service has revoked the continued presence based on a determination that the applicant is not a victim of a severe form of trafficking in persons.

(3) *Secondary evidence of victim status; Affidavits.* Credible secondary evidence and affidavits may be submitted to explain the nonexistence or unavailability of the primary evidence and to otherwise establish the requirement that the applicant be a victim of a severe form of trafficking in persons. The secondary evidence must include an original statement by the applicant indicating that he or she is a victim of a severe form of trafficking in persons; credible evidence of victimization and cooperation, describing what the alien has done to report the crime to an LEA; and a statement indicating whether similar records for the time and place of the crime are available. The statement or evidence should demonstrate that good faith attempts were made to obtain the LEA endorsement, including what efforts the applicant undertook to accomplish these attempts. Applicants are encouraged to provide and document all credible evidence, because there is no guarantee that a particular piece of evidence will result in a finding that the applicant was a victim of a severe form of trafficking in persons. If the applicant does not submit an LEA endorsement, the Service will proceed with the adjudication based on the secondary evidence and affidavits submitted. A non-exhaustive list of secondary evidence includes trial transcripts, court documents, police reports, news articles, and copies of reimbursement forms for travel to and from court. In addition, applicants may also submit their own affidavit and the affidavits of other witnesses. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Service.

(4) *Obtaining an LEA endorsement.* A victim of a severe form of trafficking in persons who does not have an LEA endorsement should contact the LEA to which the alien has provided assistance to request an endorsement. If the applicant has not had contact with an LEA regarding the acts of severe forms of trafficking in persons, the applicant should promptly contact the nearest Service or Federal Bureau of Investigation (FBI) field office or U.S. Attorneys' Office to file a complaint, assist in the investigation or prosecution of acts of severe forms of trafficking in persons, and request an LEA endorsement. If the applicant was recently liberated from the trafficking in persons situation, the applicant should ask the LEA for an endorsement. Alternatively, the applicant may contact the Department of Justice, Civil Rights Division, Trafficking in Persons and Worker Exploitation Task Force complaint hotline at 1–888–428–7581 to file a complaint and be referred to an LEA.

(g) *Physical presence on account of trafficking in persons.* The applicant must establish that he or she is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port-of-entry thereto on account of such trafficking, and that he or she is a victim of a severe form of trafficking in persons that forms the basis for the application. Specifically, the physical presence requirement reaches an alien who: is present because he or she is being subjected to a severe form of trafficking in persons; was recently liberated from a severe form of trafficking in persons; or was subject to severe forms of trafficking in persons at some point in the past and whose continuing presence in the United States is directly related to the original trafficking in persons.

(1) *In general.* The evidence and statements included with the application must state the date and place (if known) and the manner and purpose (if known) for which the applicant entered the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or a port-of-entry thereto, and demonstrate that the applicant is present now on account of the applicant's victimization as described in paragraph (f) of this section and section 101(a)(15)(T)(i)(I) of the Act.

(2) *Opportunity to depart.* If the alien has escaped the traffickers before law enforcement became involved in the matter, he or she must show that he or she did not have a clear chance to leave the United States in the interim. The Service will consider whether an applicant had a clear chance to leave in light of the individual applicant's circumstances. Information relevant to this determination may include, but is not limited to, circumstances attributable to the trafficking in persons situation, such as trauma, injury, lack of resources, or travel documents that have

been seized by the traffickers. This determination may reach both those who entered the United States lawfully and those who entered without being admitted or paroled. The Service will consider all evidence presented to determine the physical presence requirement, including asking the alien to answer questions on Form I–914, about when he or she escaped from the trafficker, what activities he or she has undertaken since that time, including the steps he or she may have taken to deal with the consequences of having been trafficked, and the applicant's ability to leave the United States.

(3) *Departure from the United States.* An alien who has voluntarily left (or has been removed from) the United States at any time after the act of a severe form of trafficking in persons shall be deemed not to be present in the United States as a result of such trafficking in persons unless the alien's reentry into the United States was the result of the continued victimization of the alien or a new incident of a severe form of trafficking in persons described in section 101(a)(15)(T)(i)(I) of the Act.

(h) *Compliance with reasonable requests from a law enforcement agency for assistance in the investigation or prosecution.* Except as provided in paragraph (h)(3) of this section, the applicant must submit evidence that fully establishes that he or she has complied with any reasonable request for assistance in the investigation or prosecution of acts of severe forms of trafficking in persons. As provided in paragraph (h)(3) of this section, if the victim of a severe form of trafficking in persons is under age 15, he or she is not required to comply with any reasonable request for assistance in order to be eligible for T nonimmigrant status, but may cooperate at his or her discretion.

(1) *Primary evidence of compliance with law enforcement requests.* An LEA endorsement describing the assistance provided by the applicant is not required evidence. However, if an LEA endorsement is provided as set forth in paragraph (f)(1) of this section, it will be considered primary evidence that the applicant has complied with any reasonable request in the investigation or prosecution of the severe form of trafficking in persons of which the applicant was a victim. If the Service has reason to believe that the applicant has not complied with any reasonable request for assistance by the endorsing LEA or other LEAs, the Service will contact the LEA and both the Service and the LEA will take all practical steps to reach a resolution acceptable to both agencies. The Service may, at its discretion, interview the alien regarding the evidence for and against the compliance, and allow the alien to submit additional evidence of such compliance. If the Service determines that the alien has not complied with any reasonable request for assistance, then the application will be denied, and any approved application based on the LEA endorsement will be revoked pursuant to this section.

(2) *Secondary evidence of compliance with law enforcement requests; Affidavits.* Credible secondary evidence and affidavits may be submitted to show the nonexistence or unavailability of the primary evidence and to otherwise establish the requirement that the applicant comply with any reasonable request for assistance in the investigation or prosecution of that severe form of trafficking in persons. The secondary evidence must include an original statement by the applicant that indicates the reason the LEA endorsement does not exist or is unavailable, and whether similar records documenting any assistance provided by the applicant are available. The statement or evidence must show that an LEA that has responsibility and authority for the detection, investigation, or prosecution of severe forms of trafficking in persons has information about such trafficking in persons, that the victim has complied with any reasonable request for assistance in the investigation or prosecution of such acts of trafficking, and, if the victim did not report the crime at the time, why the crime was not previously reported. The statement or evidence should demonstrate that good faith attempts were made to obtain the LEA endorsement, including what efforts the applicant undertook to accomplish these attempts. In addition, applicants may also submit their own affidavit and the affidavits of other witnesses. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Service. Applicants are encouraged to describe and document all applicable factors, since there is no guarantee that a particular reason will result in a finding that the applicant has complied with reasonable requests. An applicant who never has had contact with an LEA regarding the acts of severe forms of trafficking in persons will not be eligible for T–1 nonimmigrant status.

(3) *Exception for applicants under the age of 15.* Applicants under the age of 15 are not required to demonstrate compliance with the requirement of any reasonable request for assistance in the investigation and prosecution of acts of severe forms of trafficking in persons. Applicants under the age of 15 must provide evidence of their age. Primary evidence that a victim of a severe form of trafficking in persons has not yet reached the age of 15 would be an official copy of the alien's birth certificate, a passport, or a certified medical opinion. Secondary evidence regarding the age of the applicant also may be submitted in accordance with § 103.2(b)(2)(i) of this chapter. An applicant under the age of 15 still must provide evidence demonstrating that he or she satisfies the other necessary requirements, including that he or she is the victim of a severe form of trafficking in persons and faces extreme hardship involving unusual and severe harm if removed from the United States.

(i) *Evidence of extreme hardship involving unusual and severe harm upon removal.* To be eligible for T–1 nonimmigrant status under section 101(a)(15)(T)(i) of the Act, an applicant must demonstrate that removal from the United States would subject the applicant to extreme hardship involving unusual and severe harm.

(1) *Standard.* Extreme hardship involving unusual and severe harm is a higher standard than that of extreme hardship as described in § 240.58 of this chapter. A finding of extreme hardship involving unusual and severe harm may not be based upon current or future economic detriment, or the lack of, or disruption to, social or economic opportunities. Factors that may be considered in evaluating whether removal would result in extreme hardship involving unusual and severe harm should take into account both traditional extreme hardship factors and those factors associated with having been a victim of a severe form of trafficking in persons. These factors include, but are not limited to, the following:

(i) The age and personal circumstances of the applicant;

(ii) Serious physical or mental illness of the applicant that necessitates medical or psychological attention not reasonably available in the foreign country;

(iii) The nature and extent of the physical and psychological consequences of severe forms of trafficking in persons;

(iv) The impact of the loss of access to the United States courts and the criminal justice system for purposes relating to the incident of severe forms of trafficking in persons or other crimes perpetrated against the applicant, including criminal and civil redress for acts of trafficking in persons, criminal prosecution, restitution, and protection;

(v) The reasonable expectation that the existence of laws, social practices, or customs in the foreign country to which the applicant would be returned would penalize the applicant severely for having been the victim of a severe form of trafficking in persons;

(vi) The likelihood of re-victimization and the need, ability, or willingness of foreign authorities to protect the applicant;

(vii) The likelihood that the trafficker in persons or others acting on behalf of the trafficker in the foreign country would severely harm the applicant; and

(viii) The likelihood that the applicant's individual safety would be seriously threatened by the existence of civil unrest or armed conflict as demonstrated by the designation of Temporary Protected Status, under section 244 of the Act, or the granting of other relevant protections.

(2) *Evidence.* An applicant is encouraged to describe and document all factors that may be relevant to his or her case, since there is no guarantee that a particular reason or reasons will result in a finding that removal would cause extreme hardship involving unusual and severe harm to the applicant. Hardship to persons other than the alien victim of a severe form of trafficking in persons cannot be considered in determining whether an applicant would suffer extreme hardship involving unusual and severe harm.

(3) *Evaluation.* The Service will evaluate on a case-by-case basis, after a review of the evidence, whether the applicant has demonstrated extreme hardship involving unusual or severe harm. The Service will consider all credible evidence submitted regarding the nature and scope of the hardship should the applicant be removed from the United States, including evidence of hardship arising from circumstances surrounding the victimization as described in section 101(a)(15)(T)(i)(I) of the Act and any other circumstances. In appropriate cases, the Service may consider evidence from relevant country condition reports and any other public or private sources of information. The determination that extreme hardship involving unusual or severe harm to the alien exists is to be made solely by the Service.

(j) *Waiver of grounds of inadmissibility.* An application for a waiver of inadmissibility under section 212(d)(13) or section 212(d)(3) of the Act must be filed in accordance with § 212.16 of this chapter, and submitted to the Service with the completed application package.

(k) *Bona fide application for T–1 nonimmigrant status.*—(1) Criteria. Once an application is submitted to the Service, the Service will conduct an initial review to determine if the application is a *bona fide* application for T nonimmigrant status. An application shall be determined to be *bona fide* if, after initial review, it is properly filed, there appears to be no instance of fraud in the application, the application is complete (including the LEA endorsement or other secondary evidence), the application presents *prima facie* evidence of each element to show eligibility for T–1 nonimmigrant status, and the Service has completed the necessary fingerprinting and criminal background checks. If an alien is inadmissible under section 212(a) of the Act, the application will not be deemed to be *bona fide* unless the only grounds of inadmissibility are those under the circumstances described in section 212(d)(13) of the Act, or unless the Service has granted a waiver of inadmissibility on any other grounds. All waivers are discretionary and require a request for a waiver. Under section 212(d)(13), an application can be *bona fide* before the waiver is granted. This is not the case under other grounds of inadmissibility.

(2) *Determination by the Service.* An application for T–1 status under this section will not be treated as a *bona fide* application until the Service has provided the notice described in paragraph (k)(3) of this section. In the event that an application is incomplete, the Service will request the additional information as provided in § 103.2(b)(8) of this chapter. If the application is complete, but does not present sufficient evidence to establish *prima facie* eligibility for each required element of T nonimmigrant status, the Service will adjudicate the application on the basis of the evidence presented, in accordance with the procedures of this section.

(3) *Notice to alien.* Once an application is determined to be a *bona fide* application for a T–1 nonimmigrant status, the Service will provide written confirmation to the applicant.

(4) *Stay of final order of exclusion, deportation, or removal.* A determination by the Service that an application for T–1 nonimmigrant status is *bona fide* automatically stays the execution of any final order of exclusion, deportation, or removal. This stay shall remain in effect until there is a final decision on the T application. The filing of an application for T nonimmigrant status does not stay the execution of a final order unless the Service has determined that the application is *bona fide*. Neither an immigration judge nor the Board of Immigration Appeals (Board) has jurisdiction to adjudicate an application for a stay of execution, deportation, or removal order, on the basis of the filing of an application for T nonimmigrant status.

(l) *Review and decision on applications.*—(1) *De novo review.* The Service shall conduct a de novo review of all evidence submitted and is not bound by its previous factual determinations as to any essential elements of the T nonimmigrant status application. Evidence previously submitted for this and other immigration benefits or relief may be used by the Service in evaluating the eligibility of an applicant for T nonimmigrant status. However, the Service will not be bound by its previous factual determinations as to any essential elements of the T classification. The Service will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence.

(2) *Burden of proof.* At all stages of the processing of an application for any benefits under T nonimmigrant status, the burden shall be on the applicant to present to the Service evidence that fully establishes eligibility for the desired benefit.

(3) *Decision.* After completing its review of the application, the Service shall issue a written decision granting or denying the application. If the Service determines that the applicant has met the requirements for T–1 nonimmigrant status, the Service shall grant the application, subject to the annual limitation as provided in paragraph (m) of this section. Along with the approval, the Service will include a list of nongovernmental organizations to which the applicant can refer regarding the alien's options while in the United States and resources available to the alien.

(4) *Work authorization.* When the Service grants an application for T–1 nonimmigrant status, the Service will provide the alien with an Employment Authorization Document incident to that status, which shall extend concurrently with the duration of the alien's T–1 nonimmigrant status.

(m) *Annual cap.* In accordance with section 214(n)(2) of the Act, the total number of principal aliens issued T–1 nonimmigrant status may not exceed 5,000 in any fiscal year.

(1) *Issuance of T–1 nonimmigrant status.* Once the cap is reached in any fiscal year, the Service will continue to review and consider applications in the order they are received. The Service will determine if the applicants are eligible for T–1 nonimmigrant status, but will

not issue T–1 nonimmigrant status at that time. The revocation of an alien's T–1 status will have no effect on the annual cap.

(2) *Waiting list.* All eligible applicants who, due solely to the cap, are not granted T–1 nonimmigrant status shall be placed on a waiting list and will receive notice of such placement. While on the waiting list, the applicant shall maintain his or her current means to prevent removal (deferred action, parole, or stay of removal) and any employment authorization, subject to any limits imposed on that authorization. Priority on the waiting list is determined by the date the application was properly filed, with the oldest applications receiving the highest priority. As new classifications become available in subsequent years, the Service will issue them to applicants on the waiting list, in the order in which the applications were properly filed, providing the applicant remains admissible. The Service may require new fingerprint and criminal history checks before issuing an approval. After T–1 nonimmigrant status has been issued to qualifying applicants on the waiting list, any remaining T–1 nonimmigrant numbers will be issued to new qualifying applicants in the order that the applications were properly filed.

(n) [Reserved]

(o) *Admission of the T–1 applicant's immediate family members.*—(1) *Eligibility.* Subject to section 214(n) of the Act, an alien who has applied for or been granted T–1 nonimmigrant status may apply for admission of an immediate family member, who is otherwise admissible to the United States, in a T–2 (spouse) or T–3 (child) derivative status (and, in the case of a T–1 principal applicant who is a child, a T–4 (parent) derivative status), if accompanying or following to join the principal alien. The applicant must submit evidence sufficient to demonstrate that:

(i) The alien for whom T–2, T–3, or T–4 status is being sought is an immediate family member of a T–1 nonimmigrant, as defined in paragraph (a) of this section, and is otherwise eligible for that status; and

(ii) The immediate family member or the T–1 principal would suffer extreme hardship, as described in paragraph (o)(5) of this section, if the immediate family member was not allowed to accompany or follow to join the principal T–1 nonimmigrant.

(2) *Filing procedures.* A T–1 principal may apply for T–2, T–3, or T–4 nonimmigrant status for an immediate family member by submitting Form I–914 and all necessary documentation by mail, including Supplement A, to the Service. The application for derivative T nonimmigrant status for eligible family members can be filed on the same application as the T–1 application, or in a separate application filed at a subsequent time.

(3) *Contents of the application package for an immediate family member.* In addition to Form I–914, an application for T–2, T–3, or T–4 nonimmigrant status must include the following:

(i) The proper fee for Form I–914 as provided in § 103.7(b)(1) of this chapter, or an application for a fee waiver as provided in § 103.7(c) of this chapter;

(ii) Three current photographs;

(iii) The fingerprint fee as provided in § 103.2(e) of this chapter for each immediate family member;

(iv) Evidence demonstrating the relationship of an immediate family member, as provided in paragraph (o)(4) of this section; and

(v) Evidence demonstrating extreme hardship as provided in paragraph (o)(5) of this section.

(4) *Relationship.* The relationship must exist at the time the application for the T–1 nonimmigrant status was filed, and must continue to exist at the time of the application for T–2, T–3, or T–4 status and at the time of the immediate family member's subsequent admission to the United States. If the T–1 principal alien proves that he or she became the parent of a child after the T–1 nonimmigrant status was filed, the child shall be eligible to accompany or follow to join the T–1 principal.

(5) *Evidence demonstrating extreme hardship for immediate family members.* The application must demonstrate that each alien for whom T–2, T–3, or T–4 status is being sought, or the principal T–1 applicant, would suffer extreme hardship if the immediate family member was not admitted to the United States or was removed from the United States (if already present). When the immediate family members are following to join the principal, the extreme hardship must be substantially different than the hardship generally experienced by other residents of their country of origin who are not victims of a severe form of trafficking in persons. The Service will consider all credible evidence of extreme hardship to the T–1 recipient or the individual immediate family members. The determination of the extreme hardship claim will be evaluated on a case-by-case basis, in accordance with the factors outlined in § 240.58 of this chapter. Applicants are encouraged to raise and document all applicable factors, since there is no guarantee that a particular reason or reasons will result in a finding of extreme hardship if the applicant is not allowed to enter or remain in the United States. In addition to these factors, other factors that may be considered in evaluating extreme hardship include, but are not limited to, the following:

(i) The need to provide financial support to the principal alien;

(ii) The need for family support for a principal alien; or

(iii) The risk of serious harm, particularly bodily harm, to an immediate family member from the perpetrators of the severe forms of trafficking in persons.

(6) *Fingerprinting; interviews.* The provisions for fingerprinting and interviews in paragraphs (c)(5) through (c)(7) of this section also are applicable to applications for immediate family members.

(7) *Admissibility.* If an alien is inadmissible, an application for a waiver of inadmissibility under section 212(d)(13) or section 212(d)(3) of the Act must be filed in accordance with § 212.16 of this chapter, and submitted to the Service with the completed application package.

(8) *Review and decision.* After reviewing the application under the standards of paragraph (l) of this section, the Service shall issue a written decision granting or denying the application for T–2, T–3, or T–4 status.

(9) *Derivative grants.* Individuals who are granted T–2, T–3, or T–4 nonimmigrant status are not subject to an annual cap. Applications for T–2, T–3, or T–4 nonimmigrant status will not be granted until a T–1 status has been issued to the related principal alien.

(10) *Employment authorization.* An alien granted T–2, T–3, or T–4 nonimmigrant status may apply for employment authorization by filing Form I–765, *Application for Employment Authorization,* with the appropriate fee or an application for fee waiver, in accordance with the instructions on, or attached to, that form. For derivatives in the United States, the Form I–765 may be filed concurrently with the filing of the application for T–2, T–3, or T–4 status or at any time thereafter. If the application for employment authorization is approved, the T–2, T–3, or T–4 alien will be granted employment authorization pursuant to § 274a.12(c)(25) of this chapter. Employment authorization will last for the length of the duration of the T–1 nonimmigrant status.

(11) *Aliens outside the United States.* When the Service approves an

application for a qualifying immediate family member who is outside the United States, the Service will notify the T–1 principal alien of such approval on Form I–797, *Notice of Action.* Form I–914, Supplement A, *Supplemental Application for Immediate Family Members of T–1 Recipient,* must be forwarded to the Department of State for delivery to the American Embassy or Consulate having jurisdiction over the area in which the T–1 recipient's qualifying immediate family member is located. The supplemental form may be used by a consular officer in determining the alien's eligibility for a T–2, T–3, or T–4 visa, as appropriate.

(p) *Duration of T nonimmigrant status.*—(1) *In general.* An approved T nonimmigrant status shall expire after 3 years from the date of approval. The status is not renewable. At the time an alien is approved for T nonimmigrant status, the Service shall notify the alien that his or her nonimmigrant status will expire in 3 years from the date of the approval of the alien's Form I–914. The applicant shall immediately notify the Service of any changes in the applicant's circumstances that may affect eligibility under section 101(a)(15)(T)(i) of the Act and this section.

(2) *Information pertaining to adjustment of status.* The Service shall further notify the alien of the requirement that the T alien apply for adjustment of status within the 90 days immediately preceding the third anniversary of the alien's having been approved such nonimmigrant status, and that the failure to apply for adjustment of status as set forth in section 245(l) of the Act will result in termination of the alien's T nonimmigrant status in the United States at the end of the 3-year period. If the alien properly files for adjustment of status to that of a person admitted for permanent residence within the 90-day period immediately preceding the third anniversary of the date of the approval of the alien's Form I–914, the alien shall continue to be in a T nonimmigrant status with all the rights, privileges, and responsibilities, including employment authorization, provided to a person possessing such status until such time as a final decision is rendered on the alien's application for adjustment of status.

(q) *De novo review.* The Service shall conduct a *de novo* review of all evidence submitted at all stages in the adjudication of an application for T nonimmigrant status. Evidence previously submitted for this and other immigration benefits or relief may be used by the Service in evaluating the eligibility of an applicant for T nonimmigrant status. However, the Service will not be bound by its previous factual determinations as to any essential elements of the T classification. The Service will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence.

(r) *Denial of application.* Upon denial of any T application, the Service shall notify the applicant, any LEA providing an LEA endorsement, and the Department of Health and Human Service's Office of Refugee Resettlement in writing of the decision and the reasons for the denial in accordance with § 103.3 of this chapter. Upon denial of an application for T nonimmigrant status, any benefits derived as a result of having filed a *bona fide* application will automatically be revoked when the denial becomes final. If an applicant chooses to appeal the denial pursuant to the provisions of § 103.3 of this chapter, the denial will not become final until the appeal is adjudicated.

(s) *Revocation of approved T nonimmigrant status.* The alien shall immediately notify the Service of any changes in the terms and conditions of an alien's circumstances that may affect eligibility under section 101(a)(15)(T) of the Act and this section.

(1) *Grounds for notice of intent to revoke.* The Service shall send to the T nonimmigrant a notice of intent to revoke the status in relevant part if it is determined that:

(i) The T nonimmigrant violated the requirements of section 101(a)(15)(T) of the Act or this section;

(ii) The approval of the application violated this section or involved error in preparation procedure or adjudication that affects the outcome;

(iii) In the case of a T–2 spouse, the alien's divorce from the T–1 principal alien has become final;

(iv) In the case of a T–1 principal alien, an LEA with jurisdiction to detect or investigate the acts of severe forms of trafficking in persons by which the alien was victimized notifies the Service that the alien has unreasonably refused to cooperate with the investigation or prosecution of the trafficking in persons and provides the Service with a detailed explanation of its assertions in writing; or

(v) The LEA providing the LEA endorsement withdraws its endorsement or disavows the statements made therein and notifies the Service with a detailed explanation of its assertions in writing.

(2) *Notice of intent to revoke and consideration of evidence.* A district director may revoke the approval of a T nonimmigrant status at any time, even after the validity of the status has expired. The notice of intent to revoke shall be in writing and shall contain a detailed statement of the grounds for the revocation and the time period allowed for the T nonimmigrant's rebuttal. The alien may submit evidence in rebuttal within 30 days of the date of the notice. The director shall consider all relevant evidence presented in deciding whether to revoke approval of the T nonimmigrant status. The determination of what is relevant evidence and the weight to be given to that evidence shall be within the sole discretion of the director.

(3) *Revocation of T nonimmigrant status.* If, upon reconsideration, the approval previously granted is revoked, the director shall provide the alien with a written notification of the decision that explains the specific reasons for the revocation. The director also shall notify the LEA that supplied an endorsement to the alien, any consular officer having jurisdiction over the applicant, and HHS's Office of Refugee Resettlement.

(4) *Appeal of a revocation of approval.* The alien may appeal the decision to revoke the approval within 15 days after the service of notice of the revocation. All appeals of a revocation of approval will be processed and adjudicated in accordance with § 103.3 of this chapter.

(5) *Effect of revocation of T–1 status.* In the event that a principal alien's T–1 nonimmigrant status is revoked, all T nonimmigrant status holders deriving status from the revoked status automatically shall have that status revoked. In the case where a T–2, T–3, or T–4 application is still awaiting adjudication, it shall be denied. The revocation of an alien's T–1 status will have no effect on the annual cap as described in paragraph (m) of this section.

(t) *Removal proceedings without revocation.* Nothing in this section shall prohibit the Service from instituting removal proceedings under section 240 of the Act for conduct committed after admission, or for conduct or a condition that was not disclosed to the Service prior to the granting of nonimmigrant status under section 101(a)(15)(T) of the Act, including the misrepresentation of material facts in the applicant's application for T nonimmigrant status.

(u) [Reserved]

(v) *Service officer referral.* Any Service officer who receives a request from an alien seeking protection as a victim of a severe form of trafficking in persons or seeking information regarding T nonimmigrant status shall

follow the procedures for protecting and providing services to victims of severe forms of trafficking outlined in 28 CFR 1100.31. Aliens believed to be victims of a severe form of trafficking in persons shall be referred to the local Service office with responsibility for investigations relating to victims of severe forms of trafficking in persons for a consultation within 7 days. The local Service office may, in turn, refer the victim to another LEA with responsibility for investigating or prosecuting severe forms of trafficking in persons. If the alien has a credible claim to victimization, he or she will be given the opportunity to submit an application for T status pursuant to section 101(a)(15)(T) of the Act and any other benefit or protection for which he or she may be eligible. An alien determined not to have a credible claim to being a victim of a severe form of trafficking in persons and who is subject to removal will be removed in accordance with Service policy.

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

10. The authority citation for section 274a continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

11. Section 274a.12 is amended by:

a. Revising the reference citation to ''(a)(15)'' to read ''(a)(16)'' in the second sentence in paragraph (a) introductory text;

b. Adding a new paragraph (a)(16); and by

c. Adding a new paragraph (c)(25), to read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

(a) * * *

(16) An alien authorized to be admitted to or remain in the United States as a nonimmigrant alien victim of a severe form of trafficking in persons under section 101(a)(15)(T)(i) of the Act. Employment authorization granted under this paragraph shall expire upon the expiration of the underlying T–1 nonimmigrant status granted by the Service.

* * * * *

(c) * * *

(25) An immediate family member of a T–1 victim of a severe form of trafficking in persons designated as a T–2, T–3 or T–4 nonimmigrant pursuant to § 214.11 of this chapter. Aliens in this status shall only be authorized to work for the duration of their T nonimmigrant status.

* * * * *

PART 299—IMMIGRATION FORMS

12. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

13. Section 299.1 is amended by adding Form ''I–914'' to the table, in the proper alpha/numeric sequence; to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
I–914	1–22–02	Application for T Nonimmigrant Status.
*	*	*

14. Section 299.5 is amended in the table by adding Form ''I–914'' to the table, in proper alpha/numeric sequence, to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB control No.
I–914	Application for T Nonimmigrant Status.	1115–0246
*	*	*

Dated: January 24, 2002.

John Ashcroft,

Attorney General.

Note: Form I–914 is published for informational purposes only and will not be codified in Title 8 of the Code of Federal Regulations.

BILLING CODE 4410–10–P

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0246; Expires 05/31/02

Application for T Nonimmigrant Status

(Filing Instructions for Application for T Nonimmigrant Status (Form I-914); Application for Immediate Family Member of T-1 Recipient (Form I-914, Supplement A); and Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B).

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Section 1. Purpose

Form I-914, Application for T Nonimmigrant

The purpose of the Form I-914 is to provide temporary immigration benefits to aliens who are victims of severe forms of trafficking in persons, and to their immediate family members, as appropriate. Form I-914 shall be filed initially by the victims themselves, who may also include eligible family members on their application at that time. The form may also be filed to petition for eligible family members whom the victim did not include in the original application, but for whom the victim subsequently wishes to file.

Form I-914, Supplement A, Application for Immediate Family Member of T-1 Recipient

The purpose of the Form I-914, Supplement A, is to allow principal T nonimmigrant status holders and applicants to apply for derivative benefits for their immediate family members. The Principal Applicant shall complete and file one Form I-914, Supplement A, for each family member for whom the Principal Applicant is now seeking derivative status.

An alien granted **T-2, T-3,** or **T-4** nonimmigrant status may apply for employment authorization by filing an Application for Employment Authorization (Form I-765), with the appropriate fee or an application for fee waiver.

The Form I-765 may be filed concurrently with the filing of the application for **T-2, T-3,** or **T-4** status, or at any time thereafter.

If employment authorization is approved, the **T-2, T-3,** or **T-4** alien will be given an eligibility classification of **C25** in accordance with section 274a.12(c)(25). Employment authorization will last for the length of the duration of the T nonimmigrant status (3 years maximum).

The validity period of the initial EAD will be for twelve (12) months. Extensions may be granted in twelve-month increments, up to the expiration date of the T nonimmigrant status (3 years maximum).

Note: An Employment Authorization Document (EAD) cannot be issued to an alien (derivative family member) that is presently residing outside the United States. The principal alien will be notified of this fact.

Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons

The Form I-914, Supplement B, is used by Federal Law Enforcement Officers to certify that the applicant is a victim of a severe form of trafficking in persons.

Section 2. General Filing Instructions

As a result of situations leading to your filing of this application, you may not feel secure receiving correspondence regarding this application at the address where you live. The Safe Mailing Address may, but need not be, the mailing address for the place where you live. It may be a post office box, the address of a friend, a community based organization that is helping you, your attorney, or any other address at which you can receive correspondence safely and punctually.

How to File

Form I-914

In addition to the Form I-914 application and the requisite evidence in support of the applicant's claim, as described in Section 3 below, a complete application package shall include the filing fee and three identical photographs of the applicant.

The photographs must have been taken within six months of filing the application, and be unmounted and unretouched. The photographs shall be three-quarter views of the right side of the applicant's face, showing the applicant's entire face, including the right ear and left eye. The photographs shall be 1 1/2 X 1 1/2 inches. The applicant's head shall not make up less than 3/4 of the photographs. The background must be consistent and light in color. The applicant's name and A#, if known, shall be lightly printed on the back of each photograph with a pencil.

A principal or derivative applicant who is or becomes inadmissible under section 212(a) of the Immigration and Nationality Act (the Act) will not be eligible for T nonimmigrant status unless the ground of inadmissibility is waived by the Service. If the ground of inadmissibility is one that can be waived, the alien should apply for a waiver of the grounds of inadmissibility from the Service on Form I-192, Application for Advance Permission to Enter as Nonimmigrant (Pursuant to Section 212(d)(3) of the Immigration and Nationality Act). Section 212(d)(3)(B) provides general authority for the Service to waive many grounds of inadmissibility for nonimmigrants. These waivers are not automatic, but may be granted in the exercise of discretion. Form I-192 should be filed at the time of filing Form I-914.

Form I-914, Supplement A

If, in addition to the Form I-914, the applicant also files one or more Forms I-914, Supplement A, Application for Immediate Family Member of T-1 Recipient, each must be accompanied by all of the appropriate documentation and evidence, the appropriate fees, and three photographs of the Derivative Applicant. The photographs of the derivative must comply with the same requirements as the photographs of the Principal Applicant, described above. If you are requesting employment authorization for the Derivative Applicant, a Form I-765, Application for Employment Authorization, must also accompany the Form I-914, Supplement A.

A Form I-914, Supplement A, Application for Immediate Family Member of T-1 Recipient, may be filed concurrently with the initial application of the Principal Applicant, or at any time thereafter. Any Form I-914, Supplement A, submitted subsequently to the Principal Applicant's initial filing, however, must be accompanied by a new Form I-914 with the appropriate boxes checked in Part A, and **original signature**, with the appropriate fee. Evidence supporting the original application, however, is not required to be resubmitted with the new Form I-914. No Form I-914, Supplement A, will be accepted without a copy of the original Form I-914.

Fingerprinting and Interview Appointments

All applicants between the ages of 14 and 79 inclusive must be fingerprinted to facilitate a criminal background check. In addition, the Immigration and Naturalization Service (Service) may require the applicant to appear for a personal interview. The applicant will be notified of the proper time and location to appear for an interview, if the Service so requires, and for fingerprinting. Failure to appear for a scheduled interview without prior authorization, or failure to comply with fingerprint processing requirements, may result in denial of the application.

Section 3. Required Documentation for Each Application

Evidence

Form I-914

Application must be filed with evidence sufficient to demonstrate that each of the eligibility requirements is satisfied.

Principal Applicant for T Nonimmigrant (T-1) Status:

To qualify for T-1 nonimmigrant status, an applicant must demonstrate that he or she:

- Is physically present in the United States, American Samoa or the Commonwealth of the Northern Mariana Islands as a result of trafficking;
- Is a victim of a severe form of trafficking in persons;
- Would suffer extreme hardship involving unusual and severe harm upon removal; and
- Has complied with any reasonable request for assistance in the investigation and prosecution of acts of trafficking in persons, unless the applicant is less than 15 years old.

To establish that he or she is a victim of a severe form of trafficking in persons, the applicant must demonstrate that he or she was brought to the United States either:

(1) For the purpose of a commercial sex act, which act was either induced by force, fraud or coercion, or occurred when the applicant had not reached 18 years of age, or

(2) For the purpose of labor or services induced by force, fraud, or coercion for the purpose of subjecting the applicant to involuntary servitude, peonage, debt bondage, or slavery.

An applicant is encouraged to raise all arguments and to document all elements of his or her claim, including allegations of extreme hardship, in his or her initial application.

Form I-914, Supplement A

The Form I-914, Supplement A, must be filed with evidence sufficient to demonstrate that each of the eligibility requirements is satisfied.

Qualifications for T Derivative Applicants for Nonimmigrant Status

An applicant for T derivative status must be:

- The spouse or child of the T nonimmigrant principal applicant or the T nonimmigrant status holder, if the principal applicant or status holder is over the age of 21;

- The spouse, child or parent, if the principal applicant or status holder is under the age of 21.

Applicants for derivative status, as family members of an applicant for T-1 nonimmigrant status, or of a person granted T-1 nonimmigrant status, must submit credible documentary evidence of the relationship of the Derivative Applicant to the Principal Applicant. Documents that will be considered for this purpose are described below. If the Principal Applicant is over the age of 21, the Derivative Applicant must be the spouse or child of the Principal Applicant. If the Principal Applicant is under the age of 21, the Derivative Applicant may be the spouse, child, or parent of the Principal Applicant. If the Derivative Applicant is applying as the child of the Principal Applicant, the evidence must also establish that the Derivative Applicant is under the age of 21.

In addition, applicants for derivative status must submit evidence to demonstrate that either the principal or the Derivative Applicant will suffer extreme hardship if the Derivative Applicant is not permitted to join the Principal Applicant. An applicant is encouraged to raise all arguments and to document all elements of his or her claim, including allegations of extreme hardship, in his or her initial application.

Form I-914, Supplement B (Declaration of Law Enforcement Officer for Victim of Trafficking in Persons)

The primary evidence of an applicant's claim to be a victim of trafficking shall be a Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons. That certification is appended to this form. An applicant for T-1 nonimmigrant status need not necessarily file a Form I-914, Supplement B, to prove the claim. However, the endorsement of a Federal Law Enforcement Officer on the Form I-914, Supplement B, constitutes presumptive proof that the applicant is a victim and has complied with any reasonable request for assistance in the investigation and prosecution. These elements of the applicant's claim may be difficult to establish otherwise, and submission of the Form I-914, Supplement B, is strongly advised. Instructions pertinent to the Form I-914, Supplement B, follow.

If you do not provide a completed Form I-914, Supplement B, however, you must submit an explanation, describing your attempts to obtain the certification and why your request was refused. If you did not attempt to obtain the certification, you must explain why you did not.

Secondary Evidence

If you do not provide a completed Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons, in addition to the explanation described above, you must also submit credible secondary evidence to establish your eligibility. Such evidence may include, but is not limited to, police reports, newspaper articles, witness affidavits, or any other form of evidence. Even if you do provide a Form I-914, Supplement B, you may submit additional evidence.

Whether or not you provide a Form I-914, Supplement B, you must provide a personal narrative statement. That statement should describe the trafficking crime of which you were a victim, including:

- How you were induced to enter the United States;
- The purpose for which you were brought to the United States;
- When these events took place;
- Who was responsible;
- How long were you detained by the traffickers;
- How and when you escaped, were rescued, or otherwise became separated from the traffickers;
- What you have been doing since you were separated from the traffickers;
- Why you were unable to leave the United States after you were separated from the traffickers;
- What harm or mistreatment you fear if you are removed from the United States; and
- Why you fear you would be harmed or mistreated.

Attach documents to support your claim. The evidence submitted in support of the application must credibly establish each element of your claim. If you have in your possession, or have access to, a document showing how you entered the United States, you must submit a copy of that document with your application.

Section 4. Completing Each Application

Form I-914

Provide the specific information requested about you and your family. Answer ALL of the questions asked. If any question does not apply to you or you do not know the answer, reply "none," "N/A" (for not applicable), or "unknown," as appropriate. Provide detailed information. Answer the questions as completely as possible. You are strongly encouraged to attach additional written statements and documents that support your claim.

Part A. Purpose for Filing the Application

As was explained above, this form shall be used both for the initial application of a victim of trafficking in persons, and to file subsequently for eligible family members. In this section, you are asked to describe, by checking one or more boxes, your purpose in filing this form.

Part B. General Information about the Applicant

Provide the requested information about yourself.

Part C. Details Related to Nonimmigrant Status

The applicant must answer each question. The Principal Applicant must provide evidence to document that he or she:

(1) Is a victim of a severe form of trafficking in persons;

(2) Is present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port-of-entry thereto, on account of such trafficking;

(3) Has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking (or is not yet 15 years old); and

(4) Would suffer extreme harship involving unusual and severe harm upon removal.

The applicant must explain each of those elements of the claim in detail, and provide evidence of each of those elements of the claim. The evidence must be attached to the application when it is submitted. Failure to demonstrate eligibility credibly will result in denial of the application.

Part D. Processing Information

Answer each of the questions. If you answer "Yes" to any of the questions, you must explain your answer on a separate piece of paper. Label that sheet Form I-914, Part D, reference the number of the question which requires explanation, and attach that sheet to your application. Answering "Yes" does not necessarily mean that your application will be denied.

Part E. Information about Your Family Members

Provide the requested information about each of your family members for whom you now wish to seek immigration benefits. You may also file for a family member at a later date, rather than on your initial application. You must file one Form I-914, Supplement A, Application for Immediate Family Member of T-1 Recipient, with this application for each family member for whom you are now applying.

Part F. Attestation and Release

By signing this form, you declare, under penalty of perjury, that the statements made on the application, and the evidence submitted with it, are true and correct.

By signing this form, you also agree that the Service may release information from the record in order to investigate your claim to determine your eligibility to investigate fraudulent claims, and to assist in the investigation of trafficking in persons and related crimes. The Service requires that you sign the attestation and release so that the Service may investigate your claim to eligibility.

Part G. Preparer and/or Translator Certification

If anyone assisted you in preparing this form, translated the questions to you, or translated your responses to the questions, they must sign this certification, declaring, under penalty of perjury, that they asisted you, and that, to the best of their knowledge, the information on the form is truthful.

Form I-914, Supplement A

Provide the specific information requested about you and your family. Answer ALL of the questions asked. If any question does not apply to you or you do not know the answer, reply "none," "N/A" (for not applicable), or "unknown," as appropriate. Provide detailed information. Answer the questions as completely as possible. You are strongly encouraged to attach additional written statements and documents that support your claim.

Part A. Relationship

State the relationship of the Derivative Applicant family member to you. You must also include documentation of the claimed relationship. Documents acceptable for this purpose are listed below.

If you are filing for your:

- **Husband or wife,** give the Service a copy of your marriage certificate.
- **Child, and you are the mother,** give the child's birth certificate showing your name and the name of your child.
- **Child, and you are the father or stepparent,** give the child's birth certificate, showing both parents' names, and your marriage certificate. Child born out of wedlock and you are the father, give proof that a parent/child relationship exists or existed. For example, the child's birth certificate showing your name and evidence that you have financially supported the child. (A blood test may be necessary.)

- **Mother,** give your birth certificate showing your name and the name of your mother.
- **Father,** give your birth certificate showing your names of both parents, and your parents' marriage certificate.
- **Stepparent,** give your birth certificate showing the name of both natural parents, and the marriage certificate of your parent to your stepparent.
- **Adoptive parent or adopoted child,** give a certified copy of the adoption decree, the legal custody decree if you obtained custody before adoption, and a statement showing the dates and places you have lived together with the adopted parent or child.

In addition, in any case in which a marriage license is required, if either the husband or wife was married before, you must submit documents to show that all previous marriages were legally ended (for example, a divorce decree or death certificate). In cases where the names shown on the supporting documents have changed, give the Service legal documents to show how the name change occurred (for example, a marriage certificate, adoption decree, court order, etc.).

If a required document is unavailable, you may give the Service the following instead. (The Service may require a statement from the appropriate civil authority certifying that the necessary document is unavailable.)

- **Church record:** A certificate under the seal of the church where the baptism, dedication, or comparable rite occurred within two months after birth, showing the date and place of child's birth, date of the religious ceremony, and the names of the child's parents.
- **School record:** A letter from the authorities of the school attended (preferably the first school), showing the date of admission to the school, child's date and place of birth, and the names and birthplaces of both parents, if shown in the school records.
- **Census record:** State or Federal census record showing the names, place of birth, and date of birth or age of the person listed.
- **Affidavits:** Written statements sworn to or affirmed by two persons who were living at the time and who have personal knowledge of the event you are trying to prove; for example, the date and place of birth, marriage, divorce, or death. The persons making the affidavits need not be citizens of the United States. Each affidavit should contain the following information: (1) the relationship, if any, of the affiant to you; (2) full information concerning the event; and (3) complete details concerning how the person acquired knowledge of the event.

Part B. Information about Primary Applicant

Provide the requested information about yourself.

Part C. Information about Derivative Applicant

Provide the requested information about the family member for whom you are applying. Answer each question fully. If necessary, attach additional sheets to completely address the question. Label those sheets "Form I-914, Supplement A, Part C." and reference the questions that require additional explanation.

Part D. Processing Information

Answer each of the questions. If you answer "Yes" to any of the questions, you must explain your answer on a separate sheet of paper. Label that sheet Form I-914, Supplement A, Part D, reference the number of the question that requires additional explanation, and attach the sheet to the application. Answering "Yes" does not necessarily mean that benefits will be denied.

Part E. Attestation and Release

By signing this application, you declare, under penalty of perjury, that the statements made on the application, and the evidence submitted with it, are true and correct. The derivative applicant must also sign, also under the penalty of perjury, if he or she is in the United States.

By signing this application, you also agree that the Service may release information from the record in order to investigate your claim, to determine your eligibility, to assist in the investigation and prosecution of trafficking and related crimes, and to investigate and prosecute false claims. The Service requires that you sign the attestation and release.

Part F. Preparer and/or Translator Certification

If anyone assisted you in preparing this application, translated the questions to you, or translated your responses to the questions, they must sign this certification, declaring, under penalty of perjury, that they assisted you, and that, to the best of their knowledge, that the information on the application is truthful.

Part G. Application Checklist

Please verify that you have complied with each item on this checklist. Be sure that you have complied with all Service requirements pertinent to this form. The Service is not obliged to return your form to you if it is incomplete, is unaccompanied by supporting evidence or the correct fee, or is otherwise

unacceptable. In addition, failure to answer any question on the form, or failure to comply with any other Service requirement, may result in a processing delay, or in denial of the application.

Section 5. Fee

Form I-914

The fee for this application is a base fee of $200, to a maximum amount of $400, plus:

- $50 for each immediate family member filed concurrently on the same application, to a maximum amount payable per application of $400.
- $25 fingerprint charge for each applicant between the ages of 14 and 79.

Pay the fee in the exact amount. Checks and money orders must be payable in U.S. currency. Make check or money order payable to "Immigration and Naturalization Service." If you live in Guam, make your check or money order payable to "Treasurer, Guam." If you live in the U.S. Virgin Islands, make your check or money order payable to "Commissioner of Finance of the Virgin Islands." A charge of $30 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn. Please do not send cash in the mail.

Section 6. Where to File

An applicant for status as a T nonimmigrant shall submit a complete application package, by mail, to the **USINS, Vermont Service Center, 75 Lower Weldon Street, St. Albans, VT 05479-0001.**

Section 7. Certification Instructions (Form I-914, Supplement B)

Form I-914, Supplement B, is to be completed by Federal Law Enforcement Officers for victims under the Victims of Trafficking and Violence Protection Act, Public Law 106-386. The law enforcement officer must complete the form based upon his or her knowledge of the case, including evidence developed by other law enforcement officers investigating the case.

In order to be granted immigration benefits, the applicant must demonstrate that he or she is present in the United States as a result of being a victim of a severe form of trafficking in persons. Unless the applicant is less than 15 years of age, the applicant must also demonstrate that he or she is cooperating with law enforcement in the investigation and prosecution of the trafficking crime of which he or she was a victim. These elements may be established without submitting a Form I-914, Supplement B, but submission of the Supplement B, is strongly advised.

The Form I-914 applicant may detach Form I-914, Supplement B, and submit it to a Federal law enforcement officer familiar with the case in which he or she was a victim of a severe form of trafficking in persons. After the officer has completed the form, submit it with your application package.

Section 8. Other Information

Confidentiality

Information provided in the application package is confidential. It will be used to determine eligibility, to investigate the fraudulent claims, to enforce penalties for false statements, to assist in the investigation and prosecution of trafficking and related crimes, but for no other purpose. The information provided is subject to verification by the Service. However, the Service will release the information only as necessary to the stated purposes.

Penalties for Perjury

All statements contained in response to questions in this application are declared to be true and correct under penalty of perjury. Title 18, United States Code, Section 1546, provides in part:

> . . . Whoever knowingly makes under oath, or as permitted under penalty of perjury under 1746 of Title 28, United States Code, knowingly subscribes as true, any false statement with respect to a material fact in any application, affidavit, or other document required by the immigration laws or regulations prescribed thereunder, or knowingly presents any such application, affidavit, or other document containing any such false statement shall be fined in accordance with this title or imprisoned not more than five years, or both.

The knowing placement of false information on this application may subject you and/or the preparer of this application to criminal penalties under Title 18 of the United States Code. The knowing placement of false information on this application may also subject you and/or the preparer to civil penalties under Section 274C of the Immigration and Nationality Act (INA), 8 U.S.C. 1324c. Under 8 U.S.C. 1324c, a person subject to a final order for civil document fraud is deportable from the United States and may be subject to fines.

Authority for Collecting this Information

The authority to require you to file Form I-914, Application for T Nonimmigrant Status, when applying for employment authorization is found in Public Law 106-386, Victims of Trafficking and Violence Protection Act. Information you provide on your Form I-914 is used to investigate the veracity of your claim. The information may form the basis for granting the benefit sought, or may form the basis for an investigation of a fraudulent claim. The information may also be provided to law enforcement agencies or prosecutors investigating or prosecuting crimes of trafficking or related crimes.

Failure to provide all information as requested may result in the denial or rejection of this application. The information you provide may also be disclosed to other federal, state, local and foreign law enforcement and regulatory agencies during the course of the INS investigations.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The Immigration and Naturalization Service (INS) tries to create forms and instructions which are accurate and easily understood. Often this is difficult because immigration law can be very complex. The public reporting burden for this form is estimated to average three (3) hours and twenty-five (25) minutes per response, including the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The INS welcomes your comments regarding this burden estimate or any other aspect of this form, including suggestions for reducing this burden to Immigration and Naturalization Service, HQPDI, 425 I Street, N.W., Room 4034, Washington, DC 20536; OMB No. 1115-0246. **DO NOT MAIL YOUR COMPLETED APPLICATION TO THIS ADDRESS.**

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0246; Expires 05/31/02

Application for T Nonimmigrant Status

START HERE - Please Type or Print. ***Use black ink. See Instructions for information about eligibility and how to complete and file this application.***

FOR INS USE ONLY

Bar Code

Date Stamp

Remarks

Bona Fide Application

Initials ____ Stamp # ____ Date ____

Conditional Approval

Initials ____ Stamp # ____ Date ____

Action Block

PART A. Purpose for Filing the Application

Check all that apply:

- ☐ I am filing an application for T-1 nonimmigrant status, and have not previously filed for such status.
- ☐ I have a T-1 application pending.
- ☐ I have received T-1 status.
- ☐ I am applying to bring family member(s) to the United States.

PART B. General Information About Applicant

Family Name	Given Name	Middle Name

Other Names Used *(If any)? (Include maiden name and aliases)*

Residence in the U.S. (Street Number and Name)	Apt. No.	Home Phone ( )
City	State	ZIP Code
SAFE Mailing Address in the U.S., if other than above.	Apt. No.	Daytime Phone ( )
City	State	ZIP Code

Sex ☐ Male ☐ Female

Marital Status ☐ Single ☐ Married ☐ Divorced ☐ Widowed

A# *(If any)*	Social Security # *(If any)*	Date of Birth *(MM/DD/YYYY)*
Country of Birth		Country of Citizenship
Passport #	Issue Date *(MM/DD/YYYY)*	Place of Issuance
I-94 #		Date of Last Entry into U.S.
Place of Last Entry into U.S.		Current INS Status

PART C. Details Related to T Nonimmigrant Status

When answering the following questions about your claim you should explain relevant information. You should ***attach documents in support of your claim that you are a victim of a severe form of trafficking in persons*** *and the specific facts on which you are relying to support your claim. If only applying for T derivative status subsequent to the Principal Applicant's initial filing, evidence supporting the original application is not required to be resubmitted with the new Form I-914. (Attach additional sheets of paper as needed, labeling them as Part C and the question number. Refer to Instructions for further information.) Check either Yes or No, as appropriate.*

1. I **am** a victim of a severe form of trafficking in persons. *(Attach evidence to support your claim.)* ☐ Yes ☐ No
2. I **am** submitting a Law Enforcement Agency (LEA) declaration on Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons. *(If No, explain why you are not submitting the LEA Certification.)* ☐ Yes ☐ No
3. I **am** physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry, **on account of trafficking.** *(If Yes, explain in detail and attach evidence and documents supporting this claim.)* ☐ Yes ☐ No
4. I fear that I will suffer extreme hardship involving unusual and severe harm upon removal. *(If Yes, explain in detail and attach evidence and documents supporting this claim.)* ☐ Yes ☐ No

PART C. T Nonimmigrant Status *(Continued)*

5. I have reported the crime of which I am claiming to be a victim. *(If Yes, indicate to which law enforcement agency and office you have made the report, the address and phone number of that office, and the case number assigned, if any. If No, please explain the circumstances.)* ☐ Yes ☐ No

Law Enforcement Agency and Office	*Address*	*Phone No.*
		Case No.

6. I am under *the age of 15 years. (If Yes, proceed to question 8.)* ☐ Yes ☐ No

7. I have complied with requests from U.S. government authorities for assistance in the investigation or prosecution of acts of trafficking. *(If No, explain the circumstances. You may add additional pages if necessary, marking them Form I-914, Part C.7.)* ☐ Yes ☐ No

8. This is the first time I have entered the United States. *(If No, list each date, place of entry and under which status you entered the United States for the past 5 years.)* ☐ Yes ☐ No

Date of Entry	*Place of Entry*	*Status*

9. My most recent entry was on account of the trafficking that forms the basis for my claim. *(Explain the circumstances of your most recent arrival.)* ☐ Yes ☐ No

10. I **want** an Employment Authorization Document. ☐ Yes ☐ No

11. I **am** now applying for one or more eligible family members. *(If Yes, complete and include a Form I-914, Supplement A, Application for Immediate Family Member of T-1 Recipient, for each family member for whom you are now applying. You may also apply to bring eligible family members to the United States at a later date.)* ☐ Yes ☐ No

PART D. Processing Information

Please answer the following questions. *(If your answer is "Yes" to any one of these questions, explain on a separate piece of paper. Answering "Yes" does not necessarily mean that you are not entitled to adjust your status or register for permanent residence.)*

1. Have you ever, in or outside the U.S.:
   a. knowingly committed any crime of moral turpitude or a drug-related offense for which you have not been arrested? ☐ Yes ☐ No
   b. been arrested, cited, charged, indicted, fined or imprisoned for breaking or violating any law or ordinance, excluding traffic violations? ☐ Yes ☐ No
   c. been the beneficiary of a pardon, amnesty, rehabilitation decree, other act of clemency or similar action? ☐ Yes ☐ No
   d. exercised diplomatic immunity to avoid prosecution for a criminal offense in the U.S.? ☐ Yes ☐ No

2. Have you ever received public assistance in the U.S. from any source, including the U.S. government or any state, country, city or municipality (other than emergency medical treatment), or are you likely to receive public assistance in the future? ☐ Yes ☐ No

3. Have you ever:
   a. within the past ten years been a prostitute or procured anyone for prostitution, or intend to engage in any such activities in the future? ☐ Yes ☐ No
   b. engaged in any unlawful commercialized vice, including, but not limited to, illegal gambling? ☐ Yes ☐ No
   c. knowingly encouraged, induced, assisted, abetted or aided any alien to try to enter the U.S. illegally? ☐ Yes ☐ No
   d. illicitly trafficked in any controlled substance, firearms, or persons, or knowingly assisted, abetted or colluded in illegal trafficking? ☐ Yes ☐ No

PART D. Processing Information *(Continued)*

4. Have you ever engaged in, conspired to engage in, or do you intend to engage in, sabotage, kidnapping, political assassination, hijacking or any other form of terrorist activity? ☐ Yes ☐ No

5. Have you ever solicited membership or funds for, or have you through any means ever assisted or provided any type of material support to, any person or organization that has engaged or conspired to engage in sabotage, kidnapping, political assassination, hijacking or any other form of terrorist activity? ☐ Yes ☐ No

6. Do you intend to engage in the U.S. in:
   a. espionage? ☐ Yes ☐ No
   b. any activity a purpose of which is opposition to, or the control or overthrow of, the government of the United States, by force, violence or other unlawful means? ☐ Yes ☐ No
   c. any activity to violate or evade any law prohibiting the export from the United States of goods, technology or sensitive information? ☐ Yes ☐ No

7. Have you ever been a member of, or in any way affiliated with, the Communist Party or any other totalitarian party? ☐ Yes ☐ No

8. Did you, during the period from March 23, 1933 to May 8, 1945, in association with either the Nazi Government of Germany or any organization or government associated or allied with the Nazi Government of Germany, ever order, incite, assist or otherwise participate in the persecution of any person because of race, religion, national orgin or political opinion? ☐ Yes ☐ No

9. Have you ever engaged in genocide, or otherwise ordered, incited, assisted or otherwise participated in the killing of any person because of race, religion, nationality, ethnic origin or political opinion? ☐ Yes ☐ No

10. Have you ever been deported from the U.S., or removed from the U.S. at government expense, excluded within the past year, or are you now in exclusion or deportation proceedings? ☐ Yes ☐ No

11. Are you under a final order of civil penalty for violating section 274C of the Immigration and Nationality Act for use of fraudulent documents or have you, by fraud or willful misrepresentation of a material fact, ever sought to procure, or procured, a visa, other documentation, entry into the United States or any immigration benefit? ☐ Yes ☐ No

12. Have you ever left the United States to avoid being drafted into the United States Armed Forces? ☐ Yes ☐ No

13. Have you ever been a J nonimmigrant exchange visitor who was subject to the two-year foreign residence requirement and not yet complied with that requirement or obtained a waiver? ☐ Yes ☐ No

14. Are you now withholding custody of a U.S. citizen child outside the U.S. from a person granted custody of the child? ☐ Yes ☐ No

15. Do you plan to practice polygamy in the U.S.? ☐ Yes ☐ No

PART E. Information about Your Family Members

List information for each family member you are now applying to have join you in the United States.

Name	Family Relationship	Date of Birth *(MM/DD/YYYY)*	Current Location

Complete Form I-914, Supplement A, Application for Immediate Family Member of T-1 Recipient, for each eligible family member listed above and attach it to this application.

PART F. Attestation and Release

After reading the information regarding penalties in the instructions, complete and sign below. If someone helped you prepare this application, he or she must complete Part G.

I have read, or had read to me, this form, the information provided on it, and the evidence provided with it, and I certify, under penalty of perjury under the laws of the United States of America, that all of the information in this entire application package, including the documentary evidence submitted with it, is true and correct.

I authorize the release of any information from my record which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking, to investigate my claim, and to investigate fraudulent claims. I further authorize the Immigration and Naturalization Service to release information to law enforcement agencies and prosecutors investigating or prosecuting crimes of trafficking or related crimes.

Signature of Applicant *(The Person in Part A.)*

[_____] _____

(Sign your name within the brackets) Date *(Month/Day/Year)*

PART G. Preparer and/or Translator Certification

To be completed and signed if form is prepared by a person other than the applicant.

I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

_____ _____

(Preparer's/Translator's Printed Name) *(Preparer's/Translator's Signature)*

Address _____ Phone Number _____

Date *(Month/Day/Year)* _____ Relationship to the Applicant _____

WARNING: **Applicants who are in the United States illegally are subject to removal if their claims are not granted. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, removal proceedings even if the application is later withdrawn.**

OMB No. 1115-0246; Expires 05/31/02

U.S. Department of Justice
Immigration and Naturalization Service

Application for Immediate Family Member of T-1 Recipient

START HERE - Please Type or Print. ***Use black ink. See Instructions for information about eligibility and how to complete and file this application.***

The recipient of the T nonimmigrant classification is referred to as the principal applicant. His/her family members are referred to as derivative applicants. The Form I-914, Supplement A, is to be completed by the principal applicant.

PART A. Relationship

The derivative applicant is my: *(Check one)* ☐ Husband/Wife ☐ Child ☐ Parent

PART B. Information about Principal Applicant

Family Name	Given Name	Middle Name	Date of Birth *(MM/DD/YYYY)*	A# *(If any)*

Principal applicant's application has been previously: *(Check One)* ☐ Submitted ☐ Granted Conditional Approval ☐ Found Bona Fide ☐ Approved for T Nonimmigrant Status

PART C. Information about Derivative Applicant

Family Name	Given Name	Middle Name	A # *(If any)*	Social Security # *(If any)*

Other Names Used *(If any)*? *(Include maiden name and aliases)*

Intended Residence in U.S. *(Street Number and Name)*	Apt. No.	City

State	ZIP Code	Home Phone	Daytime Phone
		( )	( )

Mailing Address in the U.S., if other than above.	Apt. No.	City	State	ZIP Code

Sex	Marital Status	Date of Birth *(MM/DD/YYYY)*
☐ Male ☐ Female	☐ Single ☐ Married ☐ Divorced ☐ Widowed	

Names of Prior Husband/Wives *(if any)* and Dates Marriages Ended

Country of Birth	Country of Citizenship	Passport #	Issue Date *(MM/DD/YYYY)*	Place of Issuance

Is the Derivative Applicant currently in the United States? ☐ Yes ☐ No *(If Yes, complete the following.) He or she last arrived as a (visitor, student, stowaway, without inspection, other, please specify.)*

Has the Derivative Applicant previously entered the United States? ☐ Yes ☐ No *(If Yes, list each previous entry during the past five years. Attach additional sheets, if necessary.)*

Date of Entry	*Place of Entry*	*Status*

Arrival/Departure Record (I-94) Number, Date arrived, and Date authorized stay expired, or will expire. *(As shown on Form I-94 or I-95)*

PART C. Information about Derivative Applicant ***(Continued)***

Has family member for whom you are applying ever been under immigration proceedings?

☐ Yes ☐ No If Yes, answer the following: Where: _____ When *(MM/DD/YYYY)*: _____

☐ Exclusion ☐ Deportation ☐ Recission ☐ Judicial Proceeding

List your family member's spouse and children. *(Attach additional sheets of paper, if necessary. If family member is your spouse, list only his or her children.)*

Name	*Relationship*	*Date of Birth (MM/DD/YYYY)*	*Country of Birth*

Are you applying for employment authorization for your family member? ☐ Yes ☐ No *(If Yes, submit a Form I-765, Application for Employment Authorization, for the family member.)*

PART D. Processing Information

Please answer the following questions. *(If your answer is "Yes" to any one of these questions, explain on a separate piece of paper. Answering "Yes" does not necessarily mean that your family member will be denied T nonimmigrant status.)*

1. Has the family member for whom you are applying ever:
   a. knowingly committed any crime of moral turpitude or a drug-related offense for which he or she have not been arrested? ☐ Yes ☐ No
   b. been arrested, cited, charged, indicted, fined or imprisoned for breaking or violating any law or ordinance, excluding traffic violations? ☐ Yes ☐ No
   c. been the beneficiary of a pardon, amnesty, rehabilitation decree, other act of clemency or similar action? ☐ Yes ☐ No
   d. exercised diplomatic immunity to avoid prosecution for a criminal offense in the U.S.? ☐ Yes ☐ No
2. Has the family member for whom you are applying ever received public assistance in the U.S. from any source, including the U.S. government or any state, country, city or municipality (other than emergency medical treatment), or is he or she likely to receive public assistance in the future? ☐ Yes ☐ No
3. Has the family member for whom you are applying:
   a. within the past ten years been a prostitute or procured anyone for prostitution, or does he or she intend to engage in any such activities in the future? ☐ Yes ☐ No
   b. engaged in any unlawful commercialized vice, including, but not limited to, illegal gambling? ☐ Yes ☐ No
   c. knowingly encouraged, induced, assisted, abetted or aided any alien to try to enter the U.S. illegally? ☐ Yes ☐ No
   d. illicitly trafficked in any controlled substance, firearms, or persons, or knowingly assisted, abetted or colluded in illegal trafficking? ☐ Yes ☐ No
4. Has the family member for whom you are applying ever engaged in, conspired to engage in, or does he or she intend to engage in, sabotage, kidnapping, political assassination, hijacking or any other form of terrorist activity? ☐ Yes ☐ No
5. Has the family member for whom you are applying ever solicited membership or funds for, or through any means ever assisted or provided any type of material support to, any person or organization that has engaged or conspired to engage in sabotage, kidnapping, political assassination, hijacking or any other form of terrorist activity? ☐ Yes ☐ No
6. Does the family member for whom you are applying intend to engage in the U.S. in:
   a. espionage? ☐ Yes ☐ No
   b. any activity a purpose of which is opposition to, or the control or overthrow of, the government of the United States, by force, violence or other unlawful means? ☐ Yes ☐ No
   c. any activity to violate or evade any law prohibiting the export from the United States of goods, technology or sensitive information? ☐ Yes ☐ No
7. Has the family member for whom you are applying ever been a member of, or in any way affiliated with, the Communist Party or any other totalitarian party? ☐ Yes ☐ No
8. Did the family member for whom you are applying, during the period from March 23, 1933 to May 8, 1945, in association with either the Nazi Government of Germany or any organization or government associated or allied with the Nazi Government of Germany, ever order, incite, assist or otherwise participate in the persecution of any person because of race, religion, national orgin or political opinion? ☐ Yes ☐ No

PART D. Processing Information *(Continued)*

9. Has the family member for whom you are applying ever engaged in genocide, or otherwise ordered, incited, assisted or otherwise participated in the killing of any person because of race, religion, nationality, ethnic origin or political opinion? ☐ Yes ☐ No

10. Has the family member for whom you are applying ever been deported from the U.S., or removed from the U.S. at government expense, excluded within the past year, or is he or she now in exclusion or deportation proceedings? ☐ Yes ☐ No

11. Is the family member for whom you are applying under a final order of civil penalty for violating section 274C of the Immigration and Nationality Act for use of fraudulent documents or has he or she, by fraud or willful misrepresentation of a material fact, ever sought to procure, or procured, a visa, other documentation, entry into the United States or any immigration benefit? ☐ Yes ☐ No

12. Has the family member for whom you are applying ever left the United States to avoid being drafted into the United States Armed Forces? ☐ Yes ☐ No

13. Has the family member for whom you are applying ever been a J nonimmigrant exchange visitor who was subject to the two-year foreign residence requirement and not yet complied with that requirement or obtained a waiver? ☐ Yes ☐ No

14. Is the family member for whom you are applying now withholding custody of a U.S. citizen child outside the U.S. from a person granted custody of the child? ☐ Yes ☐ No

15. Does the family member for whom you are applying plan to practice polygamy in the U.S.? ☐ Yes ☐ No

PART E. Attestation and Release

The Derivative Applicant, the family member for whom you are applying, must sign below if he or she is presently in the United States. If someone helped you prepare this supplementary application, he or she must complete Part F.

I have read, or had read to me, this form, the information provided on it, and the evidence provided with it, and certify, under penalty of perjury under the laws of the United States of America, that the information on this supplementary application and the evidence submitted with it are true and correct.

I authorize the release of any information from the record which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking for the family member for whom I am applying, to investigate my claim, and to investigate fraudulent claims. I further authorize the Immigration and Naturalization Service to release information to law enforcement agencies and prosecutors investigating or prosecuting crimes of trafficking or related crimes.

[_____] _____

Signature of Derivative Applicant *(The family member for whom you are applying.)* Date *(Month/Day/Year)*

[_____] _____

Signature of Principal *(Sign your name within the brackets)* Date *(Month/Day/Year)*

PART F. Preparer and/or Translator Certification

To be completed and signed if form is prepared by a person other than the applicant.

I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

_____ _____

(Preparer's/Translator's Printed Name) (Preparer's/Translator's Signature)

Address _____ Phone Number _____

Date *(Month/Day/Year)* _____ Relationship to the Applicant _____

WARNING: **Applicants who are in the United States illegally are subject to removal if their claims are not granted. Any information provided in completing this application may be used as a basis for the institution of, or as evidence in, removal proceedings even if the application is later withdrawn.**

PART G. Checklist

☐ I completely filled out and signed the form.

☐ I have attached evidence that:

- I am a victim of a severe form of trafficking;
- I am physically present in the United States on account of trafficking;
- I am cooperating with the government in the investigation/prosecution of the traffickers (unless under age 15); and
- I would suffer extreme hardship involving unusual and severe harm upon removal from the United States.

☐ I have included three photographs of myself.

☐ I have attached a check or money order for the required fees.

The required fees include:

- the fee for filing this application;
- the fingerprinting fee for the applicant, if the applicant is between the ages of 14 and 79 inclusive, and
- if the applicant is also currently filing for family members, the appliant is responsible for additional charges, as detailed in the instructions to Form I-914, Supplement A.

If I am applying for one or more family members:

☐ I have completed a Form I-914, Supplement A for each member for whom I am now applying and, if he or she is in the United States, each family member has signed that Form I-914, Supplement A.

☐ I have submitted the required evidence, including evidence of:

- my relationship to the family member for whom I am applying;
- my age, if I am applying for my parent;
- my child's age, if I am applying for my child; and
- the extreme hardship that either I or my family member will suffer, if my family member is not permitted to join me in the United States.

☐ I have included three photographs of each family member for whom I am now applying.

☐ I have included a Form I-765 Application for Employment Authorization, if I am requesting employment authorization for my family member.

☐ I have attached a check or money order for the required fees.

The required fees include:

- the fee for filing this supplementary application;
- the fingerprinting fee for the applicant, if the applicant is between 14 and 79; and
- the filing fee for Form I-765, Application for Employment Authorization, if the family member is requesting employment authorization.

NOTE: ***The required fees are posted at the INS website, at*** **http://www.ins.usdoj.gov,** ***and are also available from the INS National Customer Service Center, at 1-800-375-5283.***

OMB No. 1115-0246; Expires 05/31/02

U.S. Department of Justice
Immigration and Naturalization Service

Declaration of Law Enforcement Officer for Victim of Trafficking in Persons

Instructions to Certifying Officer: This applicant is applying for immigration benefits based upon a claim of having been a victim of a severe form of trafficking in persons. Please complete the form below based upon your knowledge of the case, including evidence developed by other law enforcement officers investigating the case.

In order to be granted immigration benefits, the applicant must demonstrate that he or she is present in the United States as a result of being a victim of a severe form of trafficking in persons. Unless the applicant is less than 15 years old, the applicant must also demonstrate that he or she is cooperating with law enforcement in the investigation and prosecution of the trafficking crime of which he or she was a victim.

To be completed by Federal Law Enforcement Officers for victims under the Victims of Trafficking and Violence Protection Act, Public Law 106-386.

PART A. General Information

Name of Government Agency: ☐ Immigration and Naturalization Service, DOJ ☐ Civil Rights Division, DOJ	☐ U.S. Marshall's Service, DOJ ☐ Federal Bureau of Investigation, DOJ ☐ Criminal Division, DOJ	☐ U.S. Attorney's Office ☐ Dept. of State Diplomatic Security ☐ Other _____	Date
Address of Agency/Official		Name and Title of Certifying Officer or Official	
City	State	ZIP Code	Phone No. ( )	Fax No. ( )
Victim's Name	Other Names Used	Sex ☐ Male ☐ Female	Date of Birth *(MM/DD/YYYY)*
Date of Crime	Charges		Case No.
Date Initiated *(MM/DD/YYYY)*	Case Status ☐ On-going ☐ Completed ☐ N/A	Date Completed *(MM/DD/YYYY)*	FBI Identification No., *if any*

PART B. Statement of Claim

1. The applicant is a victim of a severe form of trafficking in persons. Specifically, he or she is a victim of: *(Please check all that apply.)*

   ☐ Sex trafficking in which a commercial sex act was induced by force, fraud or coercion. Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

   ☐ Sex trafficking and the victim is under the age of 18.

   ☐ 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.

   ☐ Not applicable.

   ☐ Other, please specify on attached additional sheets.

2. Please describe the victimization upon which the applicant's claim is based and identify the relationship between that victimization and the crime under investigation/prosecution. Attach the results of any name or database inquiry performed in the investigation of the case. Please include relevant dates, etc. Has the applicant expressed any fear of retaliation or revenge if removed from the United States? Explain. Attach additional sheets, if necessary.

PART C. Cooperation of Victim *(Attach additional sheets, if necessary.)*

The applicant:

- ☐ Has complied with requests for assistance in the investigation/prosecution of the crime of trafficking. *(Explain below.)*
- ☐ Has failed to comply with requests to assist in the investigation/prosecution of the crime of trafficking. *(Explain below.)*
- ☐ Has not been requested to assist in the investigation/prosecution of any crime of trafficking.
- ☐ Has not yet attained the age of 15.
- ☐ Other, please specify on attached additional sheets.

PART D. Family Members

☐ Yes ☐ No Are any of the applicant's relatives believed to have been involved in his or her trafficking to the United States? If Yes, list the relatives and describe that relative's involvement in the applicant's trafficking.

PART E. Attestation

Based upon investigation of the facts, I certify, under penalty of perjury, that the above noted individual is or has been a victim of a severe form of trafficking in persons as defined by the VTVPA. I certify that the above information is true and correct to the best of my knowledge, and that I have made, and will make, no promises regarding the above victim's ability to obtain a visa from the Immigration and Naturalization Service, based upon this certification.

[_____]
(Signature of Law Enforcement Officer identified in Box A above)

_____
Date *(Month/Day/Year)*

[_____]
(Signature of Supervisor of Certifying Officer)

_____
(Printed Name of Supervisor)

_____
Date *(Month/Day/Year)*

[FR Doc. 02–2186 Filed 1–30–02; 8:45 am]
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