



Stakeholder Call with USCIS on VAWA, U, T

September 29, 2022

The American Immigration Lawyers Association (AILA) VAWA, U, and T National Committee coordinated a stakeholder meeting with USCIS on September 29, 2022. USCIS was represented by officials from the Office of Policy & Strategy, Service Center Operations, the Vermont Service Center, and the Public Engagement Division. These notes were compiled by VAWA, U, and T National Committee members and reflect USCIS responses to questions posed by the committee and partners.¹ For notes from USCIS's March stakeholder meeting with AILA and partners, please see [AILA Doc. No. 22030901](#).

This advisory contains general information shared by USCIS staff during the September stakeholder event. The information contained in this advisory does not create any law or rights, nor is it intended to be legal authority or advice but is presented for informational purposes only and not for media attribution.

In Attendance:

Timothy Fallon, Patricia Hindo, Nicole Avila, Megan Turngren, Lindey Greising, Lia Ocasio, Jaqueline Mares, Heather Poole, Erika Gonzalez, Evangeline Chan, Catherine Seitz, Carson Osberg, Caroline Sennett, Andrea Montavon-McKillip, Alison Kamhi, Robin Dalton, Amy Grenier, Jonathan Valdez

USCIS: Sarah Krieger, Roxana Garcia, Linda Dougherty, Cecelia Levin, Jennifer LaForce, Kate Syfert, Andria Strano, Tracey Parsons, Elizabeth Bokan

I. General

1. **Question:** We appreciate these stakeholder meetings and the opportunity to provide feedback and ask questions. Gaps in communication remain a top concern, in particular to help troubleshoot common or problematic case trends. We'd like to see USCIS move back into providing an agency point person or contact when these case trends arise so that

¹ These notes were consolidated by Alison Kamhi, Immigrant Legal Resource Center (ILRC), and Carson Osberg, Coalition to Abolish Slavery & Trafficking (CAST).

we can assist in greater efficiency and support to survivors generally. Has USCIS considered this, and if not, could USCIS prioritize this to facilitate better communication?

- a. **Answer:** USCIS encourages the use of the public engagement email address (public.engagement@uscis.dhs.gov) for case trends or areas of concern. Remember to use the hotline emails at VSC and NSC, which are within optimal response times of 14 days. If you do not get a response, please wait 45 days before submitting a second inquiry. If you do have to submit a second inquiry, put “second request” in the subject line. USCIS will take back to leadership the suggestion of having an agency point person.
2. **Question:** What are the current average and target response times for inquiries to the humanitarian hotlines? What has been done, if anything, to improve response times since our last engagement in March?
 - a. **Answer:** Optimal response times are 14 days. The centers like to give a range of 14 to 21 days, but response times are currently within 14 days. We always continue to explore options to improve customer service for VAWA/T/U applicants and their representatives because we want that service to be consistent with a victim-centered approach.
Also, legal representatives should be sure to read the autoreply message they receive when sending an inquiry to the hotlines. These autoreplies contain information relevant to the types of inquiries that USCIS will not respond to due to high volume of inquiries (for example, status inquiries for cases within processing times).
3. **Question:** For more complex issues or one that seems to require supervisor review, can legal representatives request supervisory attention via the hotline?
 - a. **Answer:** Yes, you can add “supervisory review requested” in the subject line, and then the employees that monitor the accounts will be able to refer that to a supervisor.
4. **Question:** What kind of training are officers receiving? How are they being trained? In particular officers hired under the prior administration—are they being trained now?
 - a. **Answer:** Officers receive comprehensive victim-centered training, which is a required part of any form type training for VAWAs, Ts, and Us, and even I-929s and I-485s. These trainings, which cover “victim awareness” and the actual form types, are provided as needed and intermittently throughout the year.

II. Case Processing

5. **Question:** Initial U Bona Fide Determinations continue to be listed as taking over 5 years to adjudicate. What is USCIS’s target timeframe for adjudicating these and what steps are being taken to reach this goal?

- a. **Answer:** USCIS tries to prioritize quality, and tries to find the balance between quality and efficiency. We're trying to work into the backlog as much as possible while maintaining that balance. USCIS is considering new operations efficiencies and ways to improve processing times, including adding more adjudicators. Since the last stakeholder meeting in March, VSC and NSC have trained 50 new officers to conduct bona fide determinations (BFDs) and waitlist reviews. When the BFD guidance was implemented, USCIS began reviewing the cases with the oldest receipts first. In the first year of the BFD process, USCIS conducted almost 42,000 BFD reviews; of those, nearly 30,000 principals and 12,000 derivatives have received BFDs. USCIS referred 7,300 principals and 6,300 derivatives to waitlist review.
Also, if you look at the I-918 website, if a petitioner or derivative has a pending 918/918A and they haven't already submitted the I-765, then they can do so at the address in instructions without waiting for the BFD. This is a way we can streamline adjudications and improve processing times.
6. **Question:** One trend that practitioners observe is that when a fee waiver request is included, cases are held and receipt notices are delayed, in some instances delayed over six months, which is detrimental to many vulnerable clients. What has been done since our last meeting in March to address this?
 - a. **Answer:** Receipts cannot be issued until the fee waiver is adjudicated because the rejection notice encompasses all the possible reasons for rejection, including fee waiver denial. Staff attrition has affected receipt processing and fee waiver review. USCIS has hired additional staff and training is ongoing.
7. **Question:** Are there issues with fee waiver submissions that are creating lengthy processing times?
 - a. **Answer:** No, USCIS is not seeing any issues with submissions in particular. The greatest impact is the volume of filings.
8. **Question:** When a practitioner needs to follow up with the hotline due to no receipt notice being received, should they do so after 30 days? Or what is a reasonable timeframe to wait to follow up so as to not overburden the already overburdened hotlines? We would recommend that the hotline at least confirm that the fee waiver is being processed after inquiry in order to address these concerns.
 - a. **Answer:** If no receipt is issued within 30 days, it is okay to reach out to the hotline accounts. There are opportunities for expedited requests, and the guidance for this is listed on the website.
9. **Question:** Relatedly, in response to concerns about arbitrary rejections/denials of fee waiver requests, it was mentioned at the last stakeholder meeting that a new fee rule would be forthcoming in 2022. Has it been determined whether the new fee rule will in fact include revised guidance for survivors?

- a. **Answer:** DHS intends to publish a Notice of Proposed Rulemaking (NPRM) for USCIS fees for this year, and fee waiver guidance could be part of that. But USCIS is also revising standard operating procedures, and considering changes to correspondence regarding fee waiver denials and to internal guidance to ensure consistency and clarity.
10. **Question:** During our last meeting, USCIS expressed that it would be doing a deeper dive into the issue of incorrect receipt dates. The trend being observed is that proof of mailing and delivery reflects receipt on a Friday, for example, but the receipt notice is issued with a Monday date. Can you provide an update on this and confirm that the receipt date printed should reflect the actual date of delivery for that filing and not when it is ultimately processed, consistent with 8 CFR § 103.2(a)(7)?
- a. **Answer:** Bulk mail for both VSC and NSC is delivered and picked up daily. Centers stamp filings on the date the center takes possession of the packages. If mail is received at the post office late on a Friday, it won't be retrieved until Monday, so it won't be dated until Monday. You can submit a request for review of any receipt date error to the hotline account for that center.
- Question:** In that situation, is the best point of contact the hotline emails? How can we ensure USCIS honors the actual receipt date at the post office when the receipt date impacts eligibility? As a suggestion for a policy or regulatory change, we would like to suggest implementing a mailbox rule, which is utilized in the context of the one-year filing deadline for asylum. There could be delays caused by weather, courier services, etc.
- b. **Answer:** The best contact is the hotline accounts. Flag the subject line with your request. A new notice with the corrected date should be issued if USCIS decides to correct the receipt date.
11. **Question:** In March, we mentioned that a survey of practitioners noted delays were longer/more common from NSC than from VSC. Have there been any recent improvements to the processes used at both VSC and NSC to resolve discrepancies that practitioners observed between the two Service Centers in the timely issuance of receipt notices?
- a. **Answer:** Both service centers train staff on processing receipts and fee waiver requests to eliminate the backlog as quickly as possible. The centers have significantly reduced their backlogs since our March engagement. Receipts are currently issued within 60 days of filing.
12. **Question:** Is USCIS still adjudicating Form I-929, Petition for Qualifying Family Member of a U-1, within 60 days of the U adjustment of status approval as stated in prior engagements? If not, what is the current timeframe for those decisions?

- a. **Answer:** The timeframe is within 60 days for I-929 adjudication.
13. **Question:** This past summer, practitioners began reporting erroneous rejections of AR-11s, new G-28s filed for pending cases, and supplemental filings for pending VAWA/T/U cases by VSC & NSC. The notices state that the filing may be made online. As of at least a few weeks ago, we have heard reports of continued rejections. Is USCIS aware of this issue? Has USCIS looked into this issue? What does USCIS advise practitioners to do when this happens?
- a. **Answer:** We have heard of this issue happening intermittently. We are looking into it and would like some time to look into it to provide a more comprehensive response.

III. Employment Authorization Document (EAD)

14. **Question:** Can USCIS internally fast-track applications for employment authorization for U and T visa holders who recently entered the country in U or T nonimmigrant status after consular processing? Currently, these applications are taking months, meaning that U and T visa holders enter the country in U or T status and then must survive for months (or up to a year) without permission to work (and in many cases, without access to a driver's license or social security number) because of processing times--an extraordinary hardship.
- a. **Answer:** We will take this suggestion under consideration. We recommend that U/T nonimmigrants submit their I-94 card showing valid admission when filing Form I-765, Application for Employment Authorization. However, Form I-765 is adjudicated in order of receipt. Current processing is 5.5-8.5 months. If it's an emergency, request expedited processing and include "expedite request" in the subject line of the email to the hotline. Information on how to do so is here: <https://www.uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request>
- Question:** Given these situations, we would suggest consideration of employment authorization incident to status. Is there any discussion of this?
- b. **Answer:** We acknowledge this question.
15. **Question:** With increased delays plaguing the issuance of initial and renewed EADs in many categories, including (c)(9) EADs for pending adjustment applicants, would USCIS consider expanding the automatic extension period to the (c)(14) category, particularly for U and VAWA petitioners?
- a. **Answer:** We appreciate the suggestion and will take it under consideration.
16. **Question:** Will USCIS consider expediting (c)(9) applications for T derivatives, as they are not given the same [24-month auto-extension](#) of work authorization as those in classes T-1, U-1, U-2, U-3, U-4, and U-5? Lengthy (c)(9) processing times are especially problematic for T derivatives, who are at risk of losing jobs as a result of long wait-times and no auto-extension.

- a. **Answer:** Thank you for your suggestion. We will explore options to address these delays.

17. **Question:** How should we remedy situations where employment authorization has been issued, but we still haven't received the notice indicating approval of T nonimmigrant status?

- a. **Answer:** In those cases, you can write to the hotline emails.

IV. VAWA Adjudications

18. **Question:** During our last conversation, we heard news that additional teams would be added in the spring of 2022 to improve timely adjudications of I-360 applications. Have these new teams been added and what type of timeline can practitioners expect now?

- a. **Answer:** Recruitment and hiring of officers for VAWA remains a priority. Eighty percent of VAWA self-petitions are adjudicated within 30.5 months.

19. **Question:** When should we start following up with the hotline regarding a prima facie extension?

- a. **Answer:** If the expiration date of the current prima facie notice is getting close and you haven't received an extension yet, you can contact the hotline. For a case that has been pending for a while, it's possible that the case is in adjudication. For those that are close to a decision, the officer may want to issue a decision instead of an extension notice.

V. U & T Adjudications

20. **Question:** What have been the results of USCIS's conversations with the Department of State regarding the use of alternate evidence to show no criminal history in lieu of biometrics, due to the ongoing DOS post closures and lack of appointments?

Can USCIS share a list of countries where USCIS is offering extended timeframes within which T derivatives and U applicants can have their fingerprints taken? Is this extended timeframe being expanded to additional countries given ongoing pandemic-related closures? Are these extended timeframes being offered with initial biometrics requests, or only after an applicant has been unable to complete them after an initial notice has been issued?

- a. **Answer:** USCIS is unable to create a program-wide policy allowing alternate evidence due to national security and public safety concerns, but USCIS has communicated with the Department of State (DOS) and expressed the need to prioritize biometrics for U/T applicants. USCIS liaises with DOS on a case-by-case basis.

If you get an RFE for biometrics and cannot schedule fingerprints, you still must respond to the RFE by the requested date. In your response, include evidence of efforts to schedule the biometrics appointment or intentions to do so. Those who respond in time to RFE with this evidence will have their apps placed on hold and will not be denied for abandonment.

21. **Question:** Could USCIS speak to DOS to get a list of countries where biometrics collection isn't possible at this point? Would additional coordination with DOS to get a list of countries where biometrics collection is not possible enable USCIS to not issue
- a. **Answer:** We have been coordinating with the Department of State, and this is something we will internally consider and determine if this is something we can request from them.
22. **Question:** We have identified an issue with CBP not issuing electronic I-94s to U and T Nonimmigrants who were admitted at a port of entry. We've compiled enough examples to determine this is a trend and have come to consensus that our recommendation is that CPB automatically issue paper I-94's at the time of entry. What updates can you provide about your efforts, alongside CBP, to address the issue of U and T nonimmigrants who have consular processed and not received I-94s?
- a. **Answer:** USCIS has coordinated with CBP on this issue. CBP is aware and says they are working on a policy to ensure that I-94s are printed upon arrival for T & U nonimmigrants admitted at a POE. Please note that CBP cannot print I-94s for applicants who were approved while in the United States. Nor can individuals who arrived in a non-T or U class of admission obtain their I-94 on the public I-94 website after receiving T or U nonimmigrant status because they fall under 8 USC § 1367.
23. **Question:** Where an I-192 approval does not include grounds that were listed in the application, what, if any, steps should practitioners take to avoid future issues for adjustment, travel, or naturalization?

Also, what is the best practice for documenting any new inadmissibilities that may arise while applications are pending (e.g. file a supplemental Form I-192 or email the hotline and ask for administrative change to file to include the newer inadmissibility)?

- a. **Answer:** USCIS adjudicators conduct a comprehensive review of the I-192 to determine which inadmissibility grounds apply in a particular case. However, if a specific inadmissibility ground is not listed on the approval notice, the reviewing officer determined it was not applicable. If you disagree, you can send an inquiry to the hotline follow-up address. The email addresses are:
 - i. hotlinefollowupI918I914.VSC@uscis.dhs.gov
 - ii. nsc.I-918inquiries@uscis.dhs.gov
- b. **Answer:** To document any new inadmissibilities for a pending I-192, legal representatives can send a written statement detailing the inadmissibility grounds along with applicable documentation to those email addresses.

VI. Travel for Pending & Approved U Petitioners/Derivatives

(The questions below were submitted but not answered.)

24. **Question:** At the last meeting, USCIS mentioned it was considering all options for creating a mechanism for waitlisted U petitioners and those with approved U petitions to apply for Advance Parole. Is there a plan in place or update for this?
25. **Question:** At the last meeting, USCIS mentioned it was considering all options for humanitarian parole for all petitioners/derivatives abroad who have been placed on the waitlist or for derivatives abroad where petitioners in the U.S. have been granted BFD. Is there a plan in place or update for this?

VII. Miscellaneous

The T-U-VAWA training mailbox is available for law enforcement agencies who wish to request training at the following email address: T_U_VAWATraining@uscis.dhs.gov.