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**AILA Unofficial Notes from
Stakeholder Call with USCIS on VAWA, U, T Issues
May 8, 2023**

The American Immigration Lawyers Association (AILA) VAWA, U, and T National Committee coordinated a stakeholder meeting with USCIS on May 8, 2023. USCIS was represented by officials from the Office of Policy & Strategy, Service Center Operations, the Vermont Service Center, and the Public Engagement Division. These notes¹ were compiled by VAWA, U, and T National Committee members and reflect USCIS responses to questions posed by the committee and partners.² USCIS’s official responses to the questions submitted can be found in the [Electronic Reading Room here](#). AILA’s Key Takeaways from this engagement may be accessed [here](#).

For AILA notes from USCIS’s September 2022 stakeholder meeting with AILA and partners, please see [here](#). To report a trend to the AILA VAWA/U/T Committee, please do so here: <https://www.aila.org/about/leadership/national-committees/report-a-trend-to-ailas-vawa-us-and-ts-committee>.

Attendance:

AILA + Partners:

Robin Dalton, Cynthia Lucas, Alison Kamhi, Carson Osberg, Andrea Montavon-McKillip, Caroline Sennett, Catherine Seitz, Evangeline Chan, Erika Gonzalez, Heather Poole, Jean Bruggeman, Jonathan Valdez, Joy Ziegeweid, Lia Ocasio, Lindsey Greising, Nicole Avila, Patricia Hindo, Rachel Sheridan, Tim Fallon

USCIS:

¹ These meeting minutes/notes contain general information shared by USCIS staff during the May 2023 stakeholder event. The information contained in this document does not create any law or rights, nor is it intended to be legal authority or advice; rather, it is presented for informational purposes only and not for media attribution.

² These notes were compiled by Carson Osberg, Coalition to Abolish Slavery & Trafficking (CAST), Tim Fallon, Her Justice, Robin Dalton, End Abuse WI, Cynthia Lucas, Lucas & Barba LLP, and Joy Ziegeweid, Urban Justice Center.

Jennifer LaForce (Public Engagement Division), Elizabeth Bokan (Service Center Operations Directorate, SCOPS), Tracey Parsons (SCOPS), Andria Strano (Office of Policy & Strategy, OP&S), Cecelia Levin (OP&S), Roxanna Garcia (OP&S), Sarah Kreiger (OP&S), Angelique Satlikalp (OP&S), Meaghan Catalano (OP&S), Karine Noncent (OP&S), Benish Anver (Office of Director)

Communication, processing times, issues with notices

1. **Question:** What is the status of efforts to address receipt issuance delays? Attorneys continue to report receipt issuance delays (*in both fee waiver and non-fee waiver humanitarian filings*) reaching 3-8 months for filings made beginning in fall of 2022. This is particularly impactful for those in removal proceedings who are required to show proof of filing. If receipt issuance is going to continue to be delayed, we respectfully request that USCIS post an alert on its website to inform attorneys and ensure respondents can provide this information when needed in immigration court.

Answer: We want to acknowledge the impact that these delays have on vulnerable populations. We've been working hard to reduce backlogs and get fee waiver decisions and receipts out in a timely manner. It is important to note that the fee waiver process is an important step in the intake process and has to be complete before USCIS can send out a receipt. If a fee waiver request is adjudicated and denied, the associated filing will be rejected—ancillary filings are where the fee waivers come in (192s, 765s, 131s, etc).

Both NSC & VSC have recently hired to assist in reducing fee waiver backlogs. Except for U-based 485s, NSC has no backlogs with fee waivers or receipt notice issuance. VSC has seen a significant backlog reduction for 1367 filings. In addition, we have shifted filing locations to NSC for form types other than 914s so that NSC can assist with fee waiver reviews and receipt notice issuance. NSC has historically had a lower filing volume, so we have a bit more capacity to handle this process at the front end.

For applicants in removal proceedings, ICE and/or OIL have the option of requesting expedited adjudication for those folks. VSC has an email account specifically manned for that purpose.

Follow-up question: What does no backlog mean in terms of how long fee waiver adjudication and receipt issuance should take? When there is no backlog, what is the timeline for rejection?

Answer: Thirty days is a relatively safe estimate, and possibly 45-60 days depending on the influx of filings. In terms of a timeline for rejection, we will have to research with the records staff and get back to you.

- Question:** Related, at our last engagement, USCIS indicated that legal practitioners can contact the humanitarian hotlines if no receipt is received within 30 days of filing. Practitioners report hotline responses after 30 days stating there is no record of the filing. What steps should practitioners follow in the face of these responses and at what point would refiling become necessary?

Answer: When submitting an inquiry, it is important to include the A#, full name, & date of birth so that customer service officers have more info to try to locate a record for that individual. If the hotline reports that there is no record, it is possible it was rejected at intake for any number of reasons—the wrong form edition was submitted, it was not signed, or because the fee waiver was denied, for example. In general, refiling is only necessary if an application or petition is lost or if it is rejected. Scenarios where a receipt or rejection notice is delayed are related to any residual backlogs with VSC. With NSC, as mentioned in the prior response, their backlogs are current.

- Question:** Related, we have received general feedback that responses to hotline inquiries for U/T/VAWA cases are delayed. What are the current average response times for inquiries to each of the humanitarian hotlines? At what point would you like practitioners to follow up on a previous inquiry? What is USCIS doing to ensure that all inquiries are responded to?

Answer: The hotline response times are currently within 14-21 days. We have seen a little bit of an influx of inquiries during the last few months. I think at the time we talked, the response time was about 14 days, so they are delayed just a little bit. If you don't receive a response to an inquiry within 14-21 days, we do ask that you wait 45 days to follow up. There are situations where the customer service representative has to request the file to research a particular issue, and sometimes files have been shipped out of the service center. If you have to follow up, put "SECOND REQUEST" in the subject line so officers know you've made a request before that hasn't been addressed.

If an emergent situation arises, an expedite request may be made as per the information available on our [website](#). For those requests, it's helpful if you note that it's an expedite request in the subject line. Service centers can monitor inquiries through a customer service platform. Program points of contact can review the age of the inquiries and if it looks like something hasn't been responded to, they can reach out to an officer or assign work as needed.

4. **Question:** Is it possible for applicants to proactively “opt in” to receiving their copy of notices in humanitarian cases directly from USCIS? While we applaud the current system’s protection of survivor confidentiality, for those who have a safe address, receiving their copies directly would provide greater autonomy to these survivors.

Answer: We really appreciate this question and it’s something we’ve been doing deep thinking on. We want to turn your attention to the [Policy Manual update](#), which provides guidance on mailing address and adjudication procedures for 1367-protected individuals. We are collecting feedback on this before it goes effective, so please share your feedback.

We are really committed to adopting victim-centered approaches into policies, programs, and procedures. A critical part of that is prioritizing victim safety, agency, and autonomy. We acknowledge with this update that protected persons are best positioned to determine where protected correspondence is directed. An important practice pointer for this is to make sure that the address in the safe address field is a safe and secure place where someone can receive mail.

5. **Question:** The USCIS Contact Center does not answer inquiries for VAWA adjustments. What is the best contact for follow up or inquiries on a VAWA adjustment once the I-360 has been approved? Is there a difference based on whether the I-485 is held in abeyance (initially filed with an I-130) versus filed concurrent with the I-360?

Related, the National Benefits Center, and district offices, are not uniformly responsive to abeyance requests. Can these requests be made concurrently to the VAWA Unit?

Answer: The Vermont and HART service centers have limited info about the status of a VAWA-based 485 because these cases are relocated to the National Benefits Center and field offices for processing. You can contact the contact center to request an in-person appointment at a field office. You can also send a signed request to NBC. But we are considering accessibility options for customer service to these populations. You can sign up for alerts regarding updates [here](#).

6. **Question:** What is the process to request replacement EADs for those that were inadvertently issued as U1/T1 instead of (a)19 or (a)16? Can applicants request a replacement by contacting [the hotline](#) and without having to mail in the U1/T1 EAD? Practitioners are reporting that that VSC and NSC are managing these differently.

Answer: Thanks for bringing it to our attention that the two centers might be handling this differently. Represented applicants & petitioners can request a replacement EAD via the hotline accounts, since the categories are due to USCIS

error. They are not required to file a 765, nor is there a fee. In general, incorrect cards must be requested back for a new and corrected card to be reissued.

Fee waivers

7. **Question:** AILA applauds USCIS's proposed rule to waive the fees associated with U-related filings (up to adjustment), T-related filings (through adjustment), and concurrently filed VAWA I-360/485s. At our September 2022 engagement, OP&S indicated that it was working on revising standard operating procedures, was considering modifying correspondence related to fee waiver denials, and was revising internal guidance to ensure consistency and clarity related to fee waiver adjudications, in particular related to U/T/VAWA benefits. Can you please provide an update on this?

Answer: After considering this thoroughly, agency leadership decided to address these issues through the proposed language in the proposed fee rule.

8. **Question:** Does VSC/NSC prioritize fee waiver adjudications where delays can result in denied benefits? For example, when accompanying an I-192 submitted in response to an RFE, a I-290B, age out concerns or U certification expiration. How can practitioners advocate for expedited fee waiver adjudication in these instances? Practitioners continue to report fee waiver adjudications taking several months, with some reporting benefits denied due to the delay from USCIS.

Answer: When an I-192 is submitted in response to an RFE or is submitted with form 290B, it is helpful for the applicant or petitioner to note that this form is being submitted with a fee waiver that requires adjudication. It is very important to return the RFE cover sheet with the RFE response. If the cover sheet is not returned, the filing could be misrouted. When the contractor does intake of correspondence, the cover sheet is how the documents are matched up to the file. Each case is different, but if there is a denial related to a fee waiver issue, we encourage submission of an inquiry so it can be researched and a response provided.

Biometrics, consular processing, and I-94 issuance

9. **Question:** What is the current process to request rescheduling of a missed biometrics appointment for a U/T/VAWA case? How long after requesting rescheduling should we expect the new appointment notice? Related, many practitioners have reported receiving

biometrics notices the day of or day before the appointment, causing delays for those who cannot arrange for time off work, childcare, transportation, etc.

Answer: A reschedule request can be made by email to the hotline account or by mail. Requestors should include the A#, receipt number, the full name and date of birth of the applicant/petitioner, and the reason for requesting the reschedule. New biometrics notices should be received within 30-45 days of the request. If the applicant or petitioner knows there's a conflict, the sooner the reschedule request is made, the more leeway USCIS will have to get a new appointment notice sent out.

10. **Question:** To ensure that U/T applicants abroad can timely schedule biometrics appointments, is USCIS considering offering alternatives to biometrics where obtaining an appointment continues to be impossible due to post closures or seeming de-prioritization of humanitarian cases?

Answer: We have been working on this issue and after careful consideration, we cannot create a program-wide policy allowing for submission of alternative evidence in lieu of biometrics because of national security and public safety concerns. We have communicated with the Department of State regarding the importance of scheduling biometrics appointments. Applicants who have received an RFE for biometrics and cannot get an appointment must still respond to the RFE by the scheduled date with evidence of their effort or intention to schedule the appointment. Those cases will be placed on hold and will not be denied for abandonment. If a denial is received due to lack of biometrics, please contact the VSC or NSC hotline account to request review of case.

11. **Question:** Will USCIS affirmatively reopen the cases of U/T derivatives and applicants abroad that were denied for failure to complete biometrics or accept an untimely I-290B without fee?

Answer: USCIS is unable to affirmatively reopen cases for U & T derivatives denied for failure to complete biometrics. Additionally, USCIS is unable to accept an untimely 290B without a fee, but the applicant may request a fee waiver.

12. **Question:** Related, are there any updates to the conversations USCIS initiated with DOS regarding appointment availability for biometrics and consular interviews for U and T visa applicants?

Answer: We continue to work with DOS on this issue and we thank you for your follow-up on this important issue. Given the complexity and required interdepartmental work, we don't have an update at this time.

13. **Question:** We appreciate USCIS being willing to discuss with CBP the issue of no I-94 being issued or available to U and T entrants, as this impacts their ability to obtain extensions, adjust status, and demonstrate evidence of work authorization (among other issues). Has there been any additional communication, and or any decisions, with CBP regarding resumption of routine issuance of paper I-94s to U & T entrants even if the applicant does not know to request one at entry?

Answer: Thank you for providing recent examples. We are engaging with CBP on this and encourage submission of any additional examples.

14. **Question:** How long does it generally take for USCIS to transmit the information relating to an approved petition to the Kentucky Consular Center (KCC)?

Answer: Both service centers ship paper copies of approvals to KCC on a daily basis. If you learn that a copy did not reach KCC, you can reach out to NSC or VSC. They have a process to transmit duplicate copies to KCC.

Survivors in removal/with removal orders

15. **Question:** In the interest of giving survivors meaningful access to relief while also conserving government resources, we urge USCIS to consider how it can implement a mechanism to expeditiously adjudicate requests from survivors in removal proceedings, and particularly detained survivors. During [ASISTA's June 2022 engagement with ICE](#), OPLA's Kerry Doyle indicated that USCIS is unable to entertain OPLA expedite requests for VAWA or U cases other than for detained applicants. Is that accurate? What, if anything, can practitioners do to ensure that an expedited request from OPLA is acted on? Are there any plans to implement a system whereby such expedited requests from either OPLA or the applicant's legal representative can be effectively requested and acted on?

Answer: As you know, the regulations have some parameters about the intersection of enforcement action and survivor benefit requests, and this is a topic that comes up in the August 2021 [ICE guidance](#) on victim-centered approaches with non-citizen crime victims. USCIS defers to ICE when they take enforcement actions in accordance with their policy.

USCIS is able to take an expedite request from ICE when a respondent has a final order or is in custody. There is a dedicated email account for these requests that has been established for some time. Expedite requests submitted to this account have to come from ICE. Representatives cannot request expedited processing through that account. For humanitarian expedite requests, practitioners can

continue to use <https://www.uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request>.

Follow-up question: Could you clarify the process in place for ICE to request expedites? The ICE director said at an engagement this week that there was no “bat phone” or a way for ICE to do that, and to do so would be going above and beyond.

Answer: There is an established process for ICE to request expedites. We have been working with ICE to make some changes to how inquiries are handled to make sure they are consistent with a victim-centered approach. As I mentioned before, an email account has been established for some time and is manned by VSC. USCIS essentially receives inquiries from ICE and then determines if the case should be routed for review, meaning if the individual is not in custody or does not have a final order of removal, they will respond to ICE and let them know.

VSC needs the A-file for expedited processing. Oftentimes when ICE contacts VSC, ICE has the A-file, and it often takes significant time and effort to get the file back from ICE.

Follow-up question: Could we have the email address so we can provide it to ICE when they say there is no process they can utilize to request an expedite? Additionally, we would like to know if you are talking to VAWA points of contact in local ICE offices to discuss the changes you referenced.

Answer: We are working with ICE points of contact regarding changes to this process. ICE has the email address to request an expedite. We tend not to give it out publicly because it could be used for incorrect purposes. We can provide it to the points of contact to refresh that it is a resource.

16. **Question:** What does USCIS do when approving an I-918 or I-914 to effectuate provisions that DHS Orders of Removal are canceled by operation of law per 8 CFR §§ 214.14(c)(5)(i) and 214.11(d)(9)(i)?

Answer: When USCIS approves a 914/918, an outstanding DHS order of removal is deemed cancelled as of the date of approval of the app or petition.

USCIS has no jurisdiction over removal or exclusions proceedings before EOIR. Once petitioners & applicants receive their approval, they may seek cancellation of an order made by EOIR by filing a motion to reopen with EOIR or BIA.

Extensions of status

17. **Question:** Does USCIS have an official or internal position on whether I-539s are approvable if they are filed more than 90 days before U/T status expires? We have heard conflicting accounts from practitioners of outcomes when a 539 is filed more than 90 days before status expires, with some being issued NOIDs or denied for filing outside of the 90-day window. PM-602-0032.2 indicates that an I-539 for T nonimmigrants should be filed no more than 90 days prior to expiration of T status, while the I-539 instructions simply state that an I-539 should be filed at least 45 days before expiration of status (not specific to any visa category).

Answer: We would not reject or deny a 539 seeking extension of status for a U or T nonimmigrant if filed before 90 days prior to the expiration of the validity period. Providing examples of denials or NOIDs would be helpful to USCIS in determining a course of action for these scenarios.

18. **Question:** Given the continued post closures necessitating extensions of status for U/T nonimmigrants, has USCIS considered granting extensions for a period of longer than a year?

Answer: Thank you for the suggestion. We are considering various options at this time and appreciate the input.

Travel for pending & approved U petitioners/derivatives

19. **Question:** At our stakeholder engagement in March 2022, 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?

Answer: We acknowledge this question and appreciate you following up. We are considering options at this time and are working hard to find solutions.

20. **Question:** At our stakeholder engagement in March 2022, 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?

Answer: Same answer as previous question.

VAWA

21. **Question:** The current processing time for a VAWA self-petition is 33 months, or more than twice as long as most posted averages for spousal I-130s. What is USCIS doing to

reduce this processing time so that VAWA petitioners are treated the same as their non-abused counterparts?

Answer: Thanks for this question. Processing times for humanitarian cases were part of the reason for the creation of the HART Service Center. There was a stakeholder event a few weeks ago outlining the setup of HART, which will now adjudicate VAWA I-360s. HART is still being set up, but our hope is that with a dedicated workforce, USCIS will improve processing efficiencies for its humanitarian workload. We hope to be able to share more about processing times once we have 6 months or more under our belt.

22. **Question:** Related, what is the processing time for a VAWA prima facie determination?

Answer: About 3 months.

23. **Question:** Are VAWA approvals still receiving a notice granting deferred action upon approval? If not routinely issued, does a self-petitioner need to request it?

Answer: Yes, approved VAWA self-petitioners also receive a notice granting deferred action. Derivatives seeking deferred action will have to request it separately.

24. **Question:** When VAWA cancellation is granted, is there a mechanism to obtain the automatic parole of children under 21 as provided by statute? Is filing an I-131 parole request the appropriate way to obtain the parole? If so, where should it be filed? If not, what is the correct procedure?

Answer: Because cancellation is only granted by an IJ in the removal context, USCIS is not aware of any dedicated parole program for this purpose.

U/T adjustment and naturalization

25. **Question:** Where an applicant entered the U.S. without inspection after their U petition was filed, what is the best way to communicate this update to USCIS to ensure the approval notice includes a grant of admission? Related, if the applicant were to enter without inspection after the U is approved, how should a practitioner request an updated approval to ensure proper admission so that they are eligible to adjust in the future?

Answer: DHS supports lawful pathways and discourages unlawful entry. Individuals who enter without inspection trigger inadmissibility and may require a 192 where not previously filed. The best way to advise USCIS of the individual's entry is to contact the hotline accounts. You need to include the petitioner's A#,

full name, and date of birth, along with sufficient detail regarding the petitioner's entry into the U.S. You can also mail this information to the service center with jurisdiction over the filing. You can find contact information for VAWA, U, and T filings on the USCIS [Contact Us page](#). This process may change as new avenues for customer service are developed.

By regulation, only individuals in the U.S. at the time of petition approval are concurrently granted U status. If an individual enters without inspection after approval, they will not be considered to be in valid U status. If an applicant is abroad when their petition approved, they have to consular process. USCIS will not issue an updated approval notice in the case of an unlawful entry following I-918 approval because the individual will not have been admitted into U status. Any after-acquired inadmissibility grounds would be considered a negative discretionary factor.

26. **Question:** After U/T adjustment has been granted, but subsequently it has been discovered that there was an undisclosed or unwaived ground of inadmissibility, is it possible to file a nunc pro tunc I-192 to avoid issues at the time of naturalization? If not, how can unwaived inadmissibility be resolved for U/T based permanent residents prior to naturalization?

Answer: Because such cases are decided on an individualized basis, we are unable to provide a uniform policy response.

Follow-up question: As a procedural follow-up, what is the proper form that should be filed to address unwaived inadmissibility in the context of an undisclosed or unwaived ground of inadmissibility that is discovered after U or T adjustment?

Answer: We'll need to research the answer to this question and get back to you.

27. **Question:** Would USCIS consider formally adopting the unpublished BIA case, *Matter of Alejandro Garnica Silva* (A098 269 615), in the Policy Manual to clearly establish that a grant of U status qualifies as an admission for purposes of § 245(a) adjustment as an immediate relative?

Answer: We appreciate the suggestion and are taking it into consideration.

Additional live questions³

³ Where AILA followed up on the response to a pre-submitted question with a live question during the engagement, those answers are provided following the pre-submitted question. This section contains only live questions that were not direct follow-ups to an answer to a pre-submitted question.

28. **Question:** What if any communication do the VSC/NSC have with NBC and local field offices with respect to when a VAWA adjustment interview can be waived? If none, will USCIS consider any guidance with respect to VAWA adjustment interview waivers to free up USCIS resources?

Answer: We will have to get back to you on this.