



U.S. Department of Justice

Office of Justice Programs

Office for Victims of Crime

Washington, D.C. 20531

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Dear OVC Services for Victims of Trafficking Victim-Grantees: --

The purpose of this letter is to provide clarification regarding client eligibility for services through the Office for Victims of Crime (OVC) Services for Victims of Trafficking Discretionary grant awarded to your agency and to provide guidance concerning the requirement for law enforcement involvement with trafficking clients. Following is information to questions you may have.

Who may be served?

Services using OVC's Victims of Trafficking grant funds may go to alien "victim[s] of a severe form of trafficking in persons" at the "pre-certification" stage, where they are not yet eligible to receive the services that they would be eligible to receive post-certification, or that aliens determined to have refugee status, as another example, may receive. Only those people who meet the definition of a "victim of a severe form of trafficking in persons" may be provided services using OVC's Victims of Trafficking grant funds.

Who is a victim of a severe form of trafficking in persons?

For purposes of OVC's Victims of Trafficking grant program, a victim of a severe form of trafficking in persons is the following:

- A. one who has been subject to trafficking practices, such as sex or labor trafficking, as described in 22 U.S.C. § 7102(8); and
- B. either:
  - (1) is under 18 years of age; or
  - (2) is the subject of a certification described in 22 U.S.C. § 7105(b)(1)(E).

What is necessary for a victim to become certified?

The Trafficking Victims Protection Act of 2000 (TVPA) describes two routes to certification for a "victim of a severe forms of trafficking."

- A. All victims must be willing to assist in every reasonable way in the investigation and prosecution of severe forms of trafficking in persons; and
- B. All victims must either:
  - (1) make a bona fide application for a T visa, which has not been denied;
  - or

- (2) be a person whose continued presence in the U.S. is necessary to effectuate prosecution of traffickers.

Submission of a T visa application must be made to the Department of Homeland Security, United States Citizenship and Immigration Services (USCIS). With regard to “continued presence,” federal law enforcement officials have the responsibility for making that determination.

#### What is necessary for a T visa application?

For the purposes of the T visa application, the easiest way to document the willingness of a victim to comply with law enforcement is to provide a law enforcement agency (LEA) endorsement submitted on a form I-914, Supplement B, along with the T visa application package. According to 8 C.F.R. § 214.11(a), a law enforcement agency is defined as any federal law enforcement agency with responsibility and authority for detecting, investigating, or prosecuting severe forms of trafficking in persons. USCIS considers this Law Enforcement Agency (LEA) endorsement as primary evidence of compliance.

However, an I-914, Supplement B is not a required part of the T visa application to meet the eligibility requirement that a victim has complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking. It is OVC’s understanding that USCIS currently will accept and consider a form I-914, Supplement B, that has been completed by local, state, or tribal law enforcement authorities, as well as other forms of documentation (i.e., secondary evidence) that demonstrate that the victim, or his/her designated representative acting on the victim’s behalf, has made good faith efforts to contact law enforcement and has demonstrated a willingness to participate in any investigation regarding his/her case. The *Code of Federal Regulations* contains specific guidance regarding the evidence USCIS will accept and how it will be used to determine T visa eligibility generally. It describes the types of evidence that the victim can present to establish compliance with law enforcement at 8 C.F.R. 214.11(h).

USCIS has informed us that the types of evidence that USCIS will accept—in the absence of a LEA endorsement submitted on an I-914, Supplement B form—may include, but are not limited to the following:

- trial transcripts;
- court documents;
- police reports;
- news articles;
- copies of reimbursement forms for travel to and from court; and/or
- the victim’s own affidavit and affidavits from other witnesses.

This secondary evidence package must also include a statement or evidence to demonstrate that the victim or his/her designated representative made good faith attempts to obtain a LEA endorsement and what efforts the victim undertook to obtain it.

If you have questions about specific documentation required to support a T visa application, you may call the United States Citizenship and Immigration Services, Vermont Service Center Customer Service line at 1-802-527-4753.

What happens if the victim applies for any other kind of visa?

If victims choose to seek other forms of immigration relief that do not include seeking TVPA certification, such as the U visa or application for asylum, you must use funding sources other than your OVC Victims of Trafficking grant funds to provide services (including legal services) to those victims. You should be aware that these varied forms of immigration relief have significant differences in benefits and consider carefully the victim's needs and particular eligibility for each prior to making application under one or another program.

Can I provide services to certified victims of trafficking?

Under the terms of your grant, you must obtain prior approval in writing from OVC in order to provide services to certified victims using OVC Victims of Trafficking grant funds.

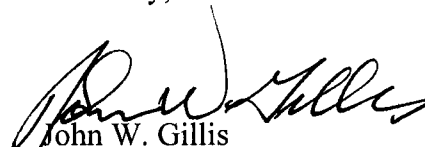
Can I use Victims of Trafficking grant funds to serve victims seeking repatriation?

Providing services to victims who may ultimately plan to repatriate is acceptable under the terms of the grant, as long as the victim meets the definition of "victim of a severe form of trafficking in persons" discussed above.

Please contact your grant monitor if you have any questions. Also keep your grant monitor informed of any problems or concerns you are experiencing related to helping your client achieve certification.

Thank you very much for your dedication and commitment to serving victims of human trafficking.

Sincerely,

  
John W. Gillis  
Director