



U.S. Citizenship
and Immigration
Services

HQPRD 70/6.2

Interoffice Memorandum

To: Director, Vermont Service Center

From: Michael Aytes /s/ by Janis Sposato
Acting Associate Director, Domestic Operations

Date: January 6, 2006

Re: Applications for U Nonimmigrant Status

Revisions to *Adjudicator's Field Manual (AFM)* Chapter 39
(*AFM* Update AD06-11)

This memorandum provides guidance to U.S. Citizenship and Immigration Services (USCIS) officers in the field regarding the U nonimmigrant classification for victims of certain qualifying criminal activity. Congress created the U nonimmigrant status in the Victims of Trafficking and Violence Protection Act (VTVPA) of 2000, Pub. L. 106-386.¹ The goal of the legislation was to strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of persons, and other criminal activity of which aliens are victims, while at the same time offering protection to victims of such offenses.

On August 30, 2001, USCIS implemented procedures to provide interim benefits to applicants establishing *prima facie* eligibility for U nonimmigrant status. Mechanisms used to confer this interim relief include deferred action, parole, and stays of removal. The Department of Homeland Security (DHS) is currently developing regulatory guidance for implementation of the U nonimmigrant provisions of the VTVPA. Until USCIS issues guidance for accepting and adjudicating applications for U nonimmigrant status, the procedures for interim relief will remain in effect. Please note, however, when USCIS begins adjudicating applications for U nonimmigrant status applicants who were granted interim relief and whose applications for U nonimmigrant status subsequently are approved will have their U nonimmigrant status recorded as of the date the request for U interim relief was approved.

This guidance is effective immediately. Please direct any questions regarding U nonimmigrant status through appropriate supervisory channels to Laura Dawkins, Office of Program and Regulations Development, via electronic mail.

Accordingly, the *AFM* is revised as follows:

¹ The sections of the VTVPA pertaining to U nonimmigrant status are codified as section 101(a)(15)(U), 214(p) and 245(m) of the Immigration and Nationality Act (Act).

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- ☞ 1. The *AFM* currently contains chapter 39 entitled, “T and U Nonimmigrant Statuses.” That chapter has been revised to add a new chapter 39.10(c)(8) (revision date [insert date memo signed]). Revised chapter 39.10 reads:

(c) Application procedures. (Chapter 39.10(c) Revised [insert date memo signed]; *AFM* 06-11)

(8) Applicants granted U interim relief. Applicants who were granted U interim relief and whose application for U nonimmigrant status is approved will have their U nonimmigrant status recorded as of the date the request for interim relief was approved.

- ☞ 2. The *AFM* currently contains chapter 39 entitled, “T and U Nonimmigrant Status.” That chapter has been revised to add a new chapter 39.13(f)(7) (revision date [insert date memo signed]). Revised chapter 39.13(f) reads:

(f) Admission of U-1 applicant's qualifying family members. (Chapter 39.13(f) Revised [insert date memo signed]; *AFM* 06-11)

(7) Derivative grants. Individuals who are granted U-2, U-3, or U-4 nonimmigrant status are not subject to an annual numerical limit. Applications for U-2, U-3, or U-4 nonimmigrant status will not be granted until a U-1 status has been issued to the related principal alien. Applicants who were granted U interim relief and whose application for U nonimmigrant status is approved will have their U nonimmigrant status recorded as of the date the request for interim relief was approved.

- ☞ 3. The *AFM* **Transmittal Memoranda** button is revised by adding a new entry, in numerical order, to read:

AD 06-11 [Insert date of signature]

Chapter 39.10 (c)
Chapter 39.13(f)

This memorandum replaces Chapter 39(c) and (f) with a revised Chapter 39(c) and (f) of the *Adjudicator's Field Manual (AFM)*.

cc: Bureau of Immigration and Customs Enforcement
Bureau of Customs and Border Protection