

**American Immigration Lawyers Association
U/T/VAWA National Committee and Coalition Partners**

**Meeting with USCIS Office of Policy and Strategy & Service Center
Operations Directorate.**

March 31, 2022

Follow Up Q&A

Q1. If applicants or petitioners need to update their file, should we mail documents to the location that we understand it is physically located or follow instructions where to file based on the application form?

A1. If you need to submit additional documents in support of a pending application or petition, it is best to mail those documents where you know it is physically located; however, USCIS will forward to the correct center as needed. You can check your receipt notice to see where your file is located. For example, if your receipt number begins with LIN, the file is located at the Nebraska Service Center. If your receipt number begins with EAC, the file is located at the Vermont Service Center.

For cases located at the Vermont Service Center (receipt number begins with EAC), documents can be sent to:

U.S. Citizenship and Immigration Services
Vermont Service Center
ATTN: Humanitarian Division
38 River Road
Essex Junction, VT 05479-0001

For I-918 cases located at the Nebraska Service Center (receipt number begins with LIN):

U.S. Citizenship and Immigration Services
Nebraska Service Center
ATTN: I-918
P.O. Box 87918
Lincoln, NE 68501-7918

Q2. Will there be published timeline for U visa approvals? Also, BFD implementation was intended to be a fast track for EADs. What are the short- and long-term goals for make that eligibility determination earlier in the application process?

A2. Historically, USCIS published processing times from receipt to waiting list adjudication. Therefore, after implementation of the BFD process, USCIS published on March 29, 2022, processing times from receipt to issuance of either a BFD notice or a notice that the petition will be considered for waiting list placement. USCIS publishes this processing time range because it informs petitioners of the processing times for the first action on their petitions that may result in a grant of deferred action and the issuance of an employment authorization document.

Nonetheless, USCIS publishes processing times for approvals of petitions for U nonimmigrant status in the Annual Report on Immigration Applications and Petitions Made by Victims of Abuse. This is a report for the U.S. Congress, but USCIS shares it with the public and can be found in the Reports and Studies section on the USCIS website.

The report for fiscal year 2021 can be accessed here:

https://www.uscis.gov/sites/default/files/document/reports/FY21_Immigration_Applications_Made_by_Victims_of_Abuse_2.9.22.pdf.

For other reports and studies, see <https://www.uscis.gov/tools/reports-and-studies>.

USCIS is currently adjudicating Form I-918s for issuance of U nonimmigrant status to petitions that were filed in FY2017. The current processing time for Form I-918s for both VSC and NSC from receipt to approval is 61.5 months. These processing times have been affected by increased receipts and demand exceeding the statutory cap of 10,000 visas. See [Form I-918, Petition for U Nonimmigrant Status, by Fiscal Year, Quarter, and Case Status](#) and [Form I-918, Petition for U Nonimmigrant Status, Bona Fide Determination Review \(Fiscal Year 2022, 1st Quarter, October 1 - December 31, 2021\)](#)

USCIS has also published data on Bona Fide Determinations on the USCIS website: This data shows that in FY21 and in the first quarter of FY 2022, USCIS has conducted over 30,000 BFD reviews. We have issued BFD grants to nearly 17,000 principal petitioners and 6,800 derivatives, for a total of over 23,000. This is in addition to the 10,000 cap adjudications completed for this fiscal year, and USCIS continues to place many eligible petitioners on the waiting list.

USCIS continues to look for ways to help alleviate the backlog. We recognize that this program provides critical benefits for crime survivors. We will continue to explore ways to reduce processing times for the U BFD program.

Q3. We are seeing the situation where fee waivers are being denied if the client with USC children are receiving means-tested benefits on behalf of the children. They are being denied because the benefit is not going to them. Do adjudicators get training in evaluating evidence other than tax returns establishing the 150%? Should we only try to use the financial hardship category because that's what the officers are looking at?

A3. The Form I-912, Request for Fee Waiver instructions state that benefit requestors may not use a means-tested benefit received by a child or household member, other than a spouse, as the basis for eligibility under the Means -Tested Benefits criteria for fee waivers. However, benefit requestor may use a means-tested benefit received by a child or non-spouse household member to support a fee waiver request based on having income at or below 150 Percent of the Federal Poverty Guidelines or under Financial Hardship. Adjudicators are trained in reviewing and evaluating a range of documentation based on ***all possible*** fee waiver criteria on a case-by-case basis. Benefit requestors may select one or more bases for which they believe may qualify them for a fee waiver request. To meet the criteria of having income at or below 150% of the Federal Poverty Guidelines, the Instructions for the Form I-912, Requests for Fee Waiver states that benefit requestors can submit tax returns, copies of recent pay stubs for a minimum of the past month, statements from an employer or business showing salary or wages paid, documentation establishing other financial support (e.g., child support, alimony, educational scholarships, etc.).

We recognize that victim-based populations often have difficulty accessing documentation. As stated in the Form I-912, Fee Waiver Request, instructions, if the applicant does not have any income, financial support, or cannot provide evidence of income, they should describe their particular situation that they believe qualifies them for a fee waiver or provide documentation, if available, that demonstrates eligibility for the fee waiver. They may submit affidavits from religious institutions, non-profits, or community-based organizations verifying that they are currently receiving some benefit or support from them.

Some filing tips include:

- Catalog the evidence submitted.
- Include as much detail as possible in personal statements, particularly if no other documentation is available. Statements should also explain why no other documentation is available.
- Ensure any documentation of income or means tested benefits is current, within the last 6 months.
- Submit English translations if any documentation is in a foreign language.
- It may be possible to request supervisory review of a fee waiver request if the filing has been denied multiple times. The request for supervisory review can be made at the time of resubmission by clearly marking the

packet, “Supervisory Review Requested.” It is also helpful to provide an explanation regarding why supervisory review is being requested.

Q4. I appreciate that there is a final rule for EAD extensions. Any sense when it will be published and what categories will apply?

A4. The Temporary Final Rule for Employment Authorization Document (EAD) extensions was published on May 3, 2022. Effective May 4, 2022, DHS is temporarily increasing the EAD extension period and providing up to 360 days of additional automatic extension time, for a total of up to 540 days, to eligible renewal applicants. For detailed information regarding eligible classifications and the temporary increased extension period, please see Automatic Employment Authorization Document (EAD) Extension | USCIS at <https://www.uscis.gov/eadautoextend>.

Q5. When are VAWA adjustment-based cases waived? Is this currently being implemented or only being considered?

A5. On April 7, 2022, USCIS announced [an updated policy](#) adopting a risk-based, data-driven approach when waiving interviews for conditional permanent residents (CPRs) who have filed a petition to remove the conditions on their permanent resident status, including requests for waivers of the joint filing requirement based on battery or extreme cruelty. This update replaces previous agency guidance that required all CPRs to undergo an interview if they obtained CPR status via consular processing. USCIS is similarly considering VAWA adjustment of status interview waivers as part of our overall strategy to improve operational efficiencies.

Q6. Would you consider bypassing consulate biometrics and allow us to submit police clearance letters instead?

A6. USCIS is aware of the challenges applicants and petitioners are facing in scheduling the submission of biometrics in light of the pandemic.

Applicants, petitioners and derivatives who have received an RFE for biometrics submission and are unable to schedule an appointment due to COVID pandemic-related lockdowns, closures or lack of appointments must respond to the RFE by the requested date. The RFE response should include evidence of their efforts or intention to schedule the biometrics appointment. These cases will be placed on hold and will not be denied for abandonment.

If cases have been denied for abandonment, even after a timely response to the RFE that included evidence of efforts or intention to schedule biometrics appointment, applicants and petitioners may file Form I-290B, Notice of Appeal or Motion within 33 days of the date of denial notification. In addition, attorneys and representatives may contact the hotline if they have clear documentation that they timely responded to the RFE explaining they were unable to schedule an

appointment. Note that contacting the hotline alone is not a substitute for a timely response to RFE or a timely submission of Form I-290B.

Listening Session Comments & Responses

1. Exercise of discretion: Individuals may have negative facts in their cases due to the trauma they have suffered—and that trauma is often part of the basis of their benefit request. We hope that trauma is considered when making decisions related to discretion.

USCIS is committed to a victim-centered approach and reducing barriers for noncitizen victims of human trafficking, gender-based violence, and other crimes. As part of that commitment, all victim-based benefits are adjudicated by officers who receive comprehensive trauma-informed training. In addition, in recognition of the unique challenges victims may have in providing evidentiary documentation of their victimization, including trauma suffered, USCIS must consider “any credible evidence” in determining whether the applicant has established their eligibility for the benefit and in our exercise of discretion when determining to waive a ground of inadmissibility.

For example, section 212(d)(13) of the INA provides USCIS with a wider discretionary waiver for grounds of inadmissibility for T visa applicants if it determines that the applicant is a victim of a severe form of trafficking in persons and if the activities rendering the noncitizen inadmissible were caused by or were incident to the noncitizen’s victimization.

2. Communication challenges for these cases. Response time for hotline used to be 14 days; now it is 30 days. That may be too long in certain situations (e.g., emergent situation; upcoming deadline). It would help to have a more victim-centered response time.

USCIS responds to inquiries as timely as possible. Delays in Hotline response time have been caused by staffing shortages and other resource constraints. USCIS has taken action to address these delays. For example, the Vermont Service Center has decreased customer service backlogs significantly through a recent increase in staffing. Currently, Hotline responses times (for both the U and T visa Hotlines) at the Vermont Service Center is within 14 days. For Nebraska Service Center, the response time is 14 to 21 days. If you do not receive a response for the Hotline, USCIS recommends following up after 45-days with another inquiry. It is useful to put the phrase “SECOND REQUEST” in the subject line to alert the Centers that this is a follow up inquiry and that you did not receive a response to the first request.

USCIS acknowledges that delayed responses from the Hotlines impact victim populations. For this reason, the agency continues to explore options to improve customer service for VAWA/U/T benefit requestors consistent with USCIS's victim-centered approach.

If an emergent situation arises, it is recommended that expedited processing be requested. More detailed information can be found at
<https://www.uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request>.

3. It is very difficult to communicate with USCIS on non-survivor benefits. For example, USCIS has expedited EAD processing for health care workers but survivors who are healthcare workers are subject to confidentiality protections. This makes it difficult to request expedited processing of their EADs as healthcare workers.

USCIS is actively exploring options on how to increase access to customer service channels for individuals covered by 8 U.S.C. 1367 confidentiality protections while adhering to our statutory obligations to protect their information.

4. We encourage USCIS to make a parole mechanism for children/parents of individuals granted Special Rule Cancellation of Removal as parole is mentioned as a benefit for derivatives in the statute at INA 240A(b)(2).

Requests for parole under INA section 240A(b)(4) for children and parents of individuals granted special rule cancellation of removal (VAWA cancellation of removal) who are residing abroad can be filed using the established process for parole requests. Information on the parole request process can be found on the USCIS website under the [Humanitarian or Significant Public Benefit Parole for Individuals Outside the United States](#) page.