

Stakeholder Meeting: Q&As from the American Immigration Lawyers Association (AILA) and Coalition partners meeting May 8, 2023

Communication, Processing times, and Issues with Notices

1. **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.**

We recognize the impact delayed processing due to resource constraints has had on this vulnerable population. An important step in the front-end review for these filings is fee waiver adjudication. Applicants and petitioners often submit fee waiver requests with their ancillary filings (Form I-192s, Form I-765, Form I-131s). VSC and NSC have recently hired additional staff, contract and Federal, to assist in reducing data entry backlogs. Currently, NSC continues to experience delays in issuing receipt notices for U-based Form I-485s, but all other workloads are current. USCIS is exploring other ways to improve processing.

VSC has seen a reduction in the data entry backlog for all 8 USC §1367-protected form-types currently pending at that center. Further, for forms other than I-914s, updates were made to filing locations to assist with the data entry/fee waiver backlog. Filings are now receipted at NSC to ensure more timely fee waiver adjudication and receipt notice issuance. Regarding applicants and petitioners in removal proceedings, ICE and/or OIL have the option of requesting expedited adjudication for any applicant/petitioner with a final order of removal or in custody via an established email account specifically for this purpose.

2. **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?**

When submitting an inquiry, a best practice is to include the applicant's/petitioner's A-number, if one has been assigned, the individual's full name and date of birth, and the form type filed by the individual. This information is helpful to customer services officers in locating any records pertaining to an individual. If the hotline accounts report there is no record of a filing, it is possible the filing was rejected at intake or rejected due to the fee waiver request being denied. In general, refiling is only necessary if an application or petition is lost. Scenarios in which a receipt or rejection notice is delayed are likely due to backlogs in intake processes. However, as previously noted, except for U-based Form I-485 receipt notices, data entry workloads are current at VSC and NSC.

3. Related, we have received general feedback that responses to hotline inquiries for U/T/VAWA 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?

- Hotline response times at VSC and NSC are within 14-21 days. If you do not receive a response from the hotline within that timeframe, please allow 45 days before submitting another inquiry. It is useful to put the phrase "SECOND REQUEST" in the subject line to alert the VSC or NSC that this is a follow up inquiry and that you did not receive a response to the first request.
- 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>. We recommend including "Expedite Request" in the subject line of your email to the hotline so that these can be routed appropriately.
- The Service Centers can monitor all inquiries through their customer service platform. Program points of contact can review the age of the inquiries and assign the requests to officers as necessary.

4. 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, however, for those who have a safe address receiving their copies directly would provide greater autonomy to these survivors.

On April 11, 2023, USCIS issued a Policy Manual update providing guidance on mailing address and adjudication procedures for victim-based and non-victim-based forms, filed by 8 USC §1367 protected persons. USCIS is collecting feedback on this update before it becomes effective. Please provide any feedback on this update by May 22, 2023. This guidance will be effective on July 11, 2023. USCIS is committed to incorporating victim-centered approaches into agency policies, programs, and procedures related to interactions with protected persons. A critical component of this approach is the prioritization of victim safety and autonomy. With this policy update, USCIS acknowledges that protected persons are best positioned to make decisions about where correspondence should be directed.

- The Policy Manual update contains guidance on mailing procedures for attorneys or accredited representatives, those without representation, and those with multiple pending forms.

- We encourage you to look at the charts in the update, and note the updates, including instances where a courtesy copy may be sent to the safe address on the underlying VAWA/U/T form.
- As a practice pointer, ensure that the **safe address field** on the form contains an address that is a safe and secure place where a person can receive mail, including for cases that you already have pending.

For more information see [Policy Alert: Safe Address and Special Procedures for Persons Protected by 8 U.S.C. 1367](#).

5. 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 Form I-360 has been approved? Is there a difference based on whether the Form I-485 is held in abeyance (initially filed with an I-130) versus filed concurrent with the Form I-360?

Thank you for this question. The VSC and HART service centers have limited information regarding the status of VAWA based Form I-485s as these applications are relocated to the NBC/FOD for processing.

Applicants or representatives may contact the USCIS Contact Center to make an in-person appointment at their local office or send a signed written request to the National Benefits Center.

USCIS is considering options for accessibility to customer service channels for this population. Any changes to customer service processes in the future will be sent to stakeholders via GovDelivery notices, web alerts, and updates to the USCIS website. To register for alerts and updates, please visit: <https://www.uscis.gov/news/alerts>.

6. What is the process to request replacement EAD's 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.

Thank you for bringing this to our attention. Represented applicants and petitioners can request replacement EADs by contacting the hotline accounts. Since the incorrect EAD categories are due to USCIS error, applicants and petitioners are not required to file an I-765 for a replacement EAD, nor is there a fee to issue a replacement card. In general, incorrect EADs are requested back. Incorrect cards must be destroyed for USCIS systems to be reset and a new, corrected card issued.

Fee waivers

7. 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 Form 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?

Thank you for this question. After considering this thoroughly, agency leadership decided to focus on addressing this issue through proposed language in the fee rule. We received comments on those proposed fee exemptions and are currently reviewing them.

- 8. 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, Form I-290B, age out concerns or U certification expiration. How can practitioners advocate 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.**

We recognize the impact delayed processing due to resource constraints has had on this vulnerable population. When an I-192 is submitted in response to a Request for Evidence, or submitted with a Form I-290B, it is helpful for the applicant or petitioner to note that the form is being submitted with a fee waiver that requires adjudication. It is also important to include the RFE cover sheet if submitting a response. These steps will assist with flagging the Form I-192 and/or Form I-290B for proper routing. If questions arise regarding denied benefits, please contact the VSC or NSC via their hotline accounts.

Biometrics, Consular Processing, and I-94 Issuances

- 9. 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.**

Thank you for bringing this to our attention. Biometric rescheduling requests can be made via the hotline accounts. Inquiries should include the applicant's or petitioner's A-number, full name, date of birth, as well as the reason for requesting rescheduling of their appointment. New appointment notices should be received in 30-45 days.

- 10. 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?**

After carefully considering the request for a policy of accepting alternate evidence where biometrics appointments are unavailable, USCIS is unable to create a program-wide policy allowing use of alternate evidence of no criminal history in lieu of biometrics due to national security and public safety concerns. However, USCIS has communicated with Department of State the urgent need to prioritize biometrics appointments for T and U nonimmigrant visa applicants, and continually liaises with the Department of State on a case-by-case basis.

Applicants, petitioners, and derivatives who have received an RFE for biometrics submission and are unable to schedule an appointment due to 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.

- 11. 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 Form I-290B without fee? At our September 2022 Engagement OP&S requested more information on this issue. We sent examples to OP&S in February 2023 and are attaching them here for your reference.**

USCIS is not able to affirmatively reopen cases for U/T derivatives who were denied for failure to complete biometrics. Additionally, USCIS is not able to accept an untimely Form I-290B without the fee, but applicants and petitioners may request a fee waiver. Applicants, petitioners, and derivatives who have received an RFE for biometrics submission and are unable to schedule an appointment due to lack of appointments must respond to the RFE by the requested date. The RFE response should include evidence of their efforts to schedule the biometrics appointment. These cases will be placed on hold and will not be denied for abandonment. If a denial is received for lack of biometrics, please contact the VSC or NSC via their hotline accounts to request review of the case.

- 12. 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?**

Thank you for this question. We are continuing to work with the Department of State on this issue. Unfortunately, given the complexity of the issue and the required inter-departmental work, we do not have any additional updates at this time.

- 13. 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? At our September 2022 Engagement OP&S requested more information on this issue; we have attached our most recent examples for your reference.**

Thank you for providing recent examples for our review. At this time, we don't have updates to provide, but are engaging with CBP regarding this matter. USCIS is continuing to look into this issue, and appreciates the examples that were sent. We encourage participants to send any additional examples they may have.

- 14. How long does it generally take for USCIS to transmit the information relating to an approved petition to the Kentucky Consular Center?**

The Service Centers ship approval copies to the KCC daily. Practitioners can contact the VSC or NSC hotline email accounts if they learn the KCC did not receive the copies of the applications or petitions.

Survivors in Removal/With Removal Orders

- 15. 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, in 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?**

The regulations provide some parameters regarding the intersection of enforcement action and survivor benefit requests. However, USCIS defers to ICE as to when enforcement action may be taken in light of ICE policy. USCIS acknowledges OPLA's response to ASISTA; however, USCIS is able to accept expedite requests from ICE when an individual has a final order of removal or when an individual is in custody. USCIS currently has procedures in place to process these requests and maintains a dedicated email account specifically for this purpose. Any requests for expedited processing that are submitted through this account must come from ICE. While legal representatives may not request expedited processing via this account, representatives may request expedited processing for urgent humanitarian reasons via the hotline email accounts. For further information regarding humanitarian expedite requests, please see <https://www.uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request>.

- 16. What does USCIS do when approving a Form I-918 or Form 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)?**

When USCIS approves a Form I-918 or Form I-914, the outstanding order of removal, deportation or exclusion issued by DHS is deemed cancelled as of the date of approval of the petition or application. USCIS has no jurisdiction in removal, deportation, or exclusion proceedings before EOIR beyond adjudication of the requested benefit. Once petitioners and applicants receive their approval, they may seek cancellation of an order issued by EOIR by filing a motion to reopen and terminate proceedings with the immigration judge or the Board of Immigration Appeals. USCIS defers to ICE regarding their procedures pertaining to join such a motion.

Extensions of Status

- 17. Does USCIS have an official or internal position on whether Form 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 a Form 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 a Form I-539 should be filed at least 45 days before expiration of status (not specific to any visa category).**

If 90 days is USCIS's official position regarding the timing of filing a Form I-539 for U/T nonimmigrants, would USCIS consider changing its position? Current processing times for U-based Form I-539s are 10 months, and current processing times for T-based Form I-539s are 17 months. Many U holders must extend their status to accrue 3 years of continuous physical presence due to COVID-related delays in consular processing. T holders extend to allow T derivative applicants abroad to complete consular processing. Unlike in the U context, there is no Form I-929 process for Ts, so T derivatives must enter while the principal applicant continues to hold T nonimmigrant status. Given these long processing times, the 90-day rule leaves U/T nonimmigrants without work authorization for extended periods of time.

Thank you for bringing this to our attention. USCIS would not reject or deny a Form I-539 seeking an extension of T or U nonimmigrant status simply because it is filed more than 90 days prior to the expiration of the present validity period. Providing examples of NOIDs or denials issued when a filing is submitted more than 90 days before status expiration would be helpful to USCIS in determining a course of action for these scenarios.

- 18. 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?**

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

Travel for Pending & Approved U Petitioners/Derivatives

- 19. 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?**

Thank you for following up on this matter. We are considering various options at this time.

- 20. 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?**

Thank you for following up on this matter. We are considering various options at this time.

VAWA

- 21. 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?**

Thank you for this question. In response to a review of USCIS processing times for humanitarian petitioners, the Humanitarian, Adjustment, Removing Conditions, and Travel Documents (HART) Service center was created. One of the four form types that HART will adjudicate is the VAWA based I-360. With the creation of this service center and dedicated workforce, USCIS will improve processing efficiencies for the humanitarian workload.

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

Processing time for VAWA prima facie determinations is currently three months.

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

Yes, VAWA approvals also receive a notice granting deferred action. Derivatives seeking deferred action must request it separately.

- 24. 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?**

Thank you for this question. As cancellation of removal is only granted by Immigration Judges in the removal context, USCIS is not aware of any such dedicated parole program for this purpose.

U/T Adjustment and Naturalization

- 25. 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?**

DHS supports lawful pathways for noncitizens to enter the United States and discourages unlawful entry. Individuals who enter without inspection after filing their petition for U nonimmigrant status will trigger inadmissibility grounds, and may require the filing of a Form I-192 where one was not needed previously, which will require additional review, and may result in a denial of their I-192 and I-918. Currently, the most efficient way for a U petitioner to notify USCIS of their entry subsequent to filing their Form I-918 is to contact the hotline accounts for more information and potential next steps. Please be sure to include the

petitioner's A-number, full name, and date of birth. Additionally, please include sufficient detail regarding the petitioner's entry into the U.S. Petitioners may also mail documentation to the Service Center with jurisdiction over their filing by locating the Center's direct mailing address at <https://www.uscis.gov/about-us/contact-us>, under the tab titled "Inquiries for VAWA, T, and U filings." This process may change as new avenues for customer service are developed and we will inform stakeholders accordingly.

By regulation, only individuals who are in the United States at the time of petition approval are concurrently granted U nonimmigrant status. If an individual enters the United States without inspection after approval of the I-918, they will not be considered in valid U nonimmigrant status, as those whose petitions for U nonimmigrant status are approved while abroad must pursue the consular process to be issued a U nonimmigrant visa and then request admission as a U nonimmigrant at a designated port of entry. USCIS will not issue an updated approval notice in the case of an unlawful entry following I-918 approval, because the noncitizen will not have been admitted into U nonimmigrant status. In addition, any after-acquired grounds of inadmissibility would be considered a negative discretionary factor in the analysis conducted pursuant to INA 245(m).

- 26. 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?**

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

- 27. 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?**

We appreciate the suggestion and will take it under consideration.