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Via [www.regulations.gov](http://www.regulations.gov)

**RE: Docket ID USCIS–2006–0059, Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for T Nonimmigrant Status**

I am an attorney and have practiced immigration law or advised on immigration law matters for approximately ten years, working primarily on humanitarian remedies, including VAWA, T, & U-related matters. I am also currently Vice Chair of AILA’s VAWA/U/T Liaison Committee. I am writing in my personal capacity in response to DHS Docket No. USCIS–2006–0059, OMB Control Number 1615-0099, Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Application for T Nonimmigrant Status.

I write to suggest the following changes to Forms I-914, I-914A, I-914B and the accompanying instructions with a goal of enhancing the quality and clarity of the information collected and also of minimizing the burden of those completing the forms. These suggestions are informed by my own experience representing survivors of trafficking and also reflect the concerns expressed to me by legal practitioners.

**Form I-914**

- Page 1, Part 1, Question 1: I suggest making the radio buttons either/or options, as an applicant has either never filed for T-1 status previously, or they have. Both (A) and (B) cannot both be simultaneously true.
- Page 1, Part 2, Question 3 (Physical Address): I suggest a note here or in the instructions that the applicant’s complete address does not need to be included, for safety and confidentiality reasons, but that the city and state or zip code are required for biometrics scheduling purposes.
- Page 1, Part 2, Question 4 (Safe Mailing Address): If “Apt.,” “Ste.,” or “Flr.” is selected, the same is automatically selected for the Law Enforcement Agency on Page 3, Part 3, Question 5.
- Page 1, Attorney State License Bar Number: I suggest correcting this field as it does not currently allow numbers.
- Page 2, Part 2, Question 8 (Gender): In order to be more inclusive and representative, I suggest updating these options to include a non-binary or other option. The I-914A currently includes “other” as an option.

- Page 2, Part 3, Questions 2 & 7: I suggest revising as both of these questions address cooperating with reasonable requests from law enforcement and are therefore partially duplicative.
- Page 4, Part 4: I recommend including a note stating that vacated crimes meeting the *Pickering* standard—which were vacated due to a substantive, statutory, or procedural defect--do not need to be listed on Form I-914. Many trafficking survivors are forced or coerced into committing crimes as part of their victimization, and state legislatures are increasingly acknowledging forced criminality by enacting vacatur legislation to allow the vacatur of criminal acts for trafficking victims, voiding the earlier judgment. In recognition of the legal error, vacatur also leads to the destruction of the related criminal records. For instance, in California, under Cal. Penal Code § 236.14(k), government agencies are required to seal and destroy such records and there is often no recourse to obtain a copy from the court. Therefore, I suggest that USCIS indicate in this explanation that if a crime has been vacated, additional documentation is unnecessary, and the crime does not need to be listed on Form I-914.
- Page 5, Part 4, Question 3D & 4B4: I suggest revising to “one or more individuals.”
- Page 9, Part 7, Interpreter’s Contact Information: I suggest including a note indicating where applicants can provide information about additional interpreters used. In cases involving rarer languages, multiple interpreters may be required, such as for interpretation from English to Spanish to an indigenous language, and vice versa. I recommend either allocating space for an additional interpreter or providing guidance on what to include in the "Additional Information" section.

### **Form I-914A**

- Page 1, Part 3, #3: When completing the T-1’s A# here, the derivative A# field on page 2 auto-populates. I suggest correcting this form error.
- Page 2, Part 4, #3 (U.S. Physical Address or Intended Physical Address): I suggest noting here that the derivative applicant’s full intended U.S. address does not need to be included for safety and confidentiality reasons.
- Page 9, Part 7, Interpreter’s Contact Information: I suggest including a note indicating where applicants can provide information about additional interpreters. In cases involving rarer languages, multiple interpreters may be required, such as for interpretation from English to Spanish to an indigenous language, and vice versa. I recommend either allocating space for an additional interpreter or providing guidance on what to include in the "Additional Information" section.
- Pages 9-10, Part 7, Interpreter’s Contact Information: I suggest including a note indicating where applicants can provide information about additional interpreters. In cases involving rarer languages, multiple interpreters may be required, such as for interpretation from English to Spanish to an indigenous language, and vice versa. I recommend either allocating space for an additional interpreter or providing guidance on what to include in the "Additional Information" section.

- Page 11, Part 8 (Preparer's Mailing Address), #3: The field allows no space between the street number and street name. I suggest correcting this form error.
- Page 12, Part 9 (Additional Information): The T-1's name and A# automatically populate here, though the form primarily collects information about the derivative beneficiary. I suggest correcting this.

### **I-914 & I-914A Instructions**

- General: I suggest referencing the USCIS Policy Manual for *pro se* individuals who are unlikely to be aware of existing guidance regarding T nonimmigrant status. Also suggest providing a link to OVC-funded legal service providers so that unrepresented individuals may attempt to seek free or low-cost representation, which is more efficient and effective for both applicants and USCIS.
- Page 1, #1(C): I suggest clarifying that the age-based exemption applies to individuals who were under 18 *at the time of the trafficking victimization*, not at the time of filing Form I-914. (This should also be clarified on page 14.) 3 USCIS-PM [B.2.D.5](#).
- Page 1, #2: I suggest clarifying that no I-914A may be filed once the T-1 no longer holds T nonimmigrant status (e.g. it expires or they have adjusted status).
- Page 1, #2: I suggest clarifying that age-out protections exist beyond the date of adjudication of the T-1 application, as per the [T visa regulations](#), as this question comes up fairly regularly. For example, if an I-914A is filed after the T-1 has turned 21 and after the I-914 has been granted, the derivative beneficiary still retains eligibility. (This should also be clarified on page 9.)
- Page 2, *Completing form I-914*, Part 1. Purpose for Filing This Application: I suggest revising the following, as I am not clear on its purpose here, since all derivatives must be applied for using Form I-914A: "If you are only filing for a T-6 derivative, you should leave **Part A**. blank."
- Page 2, Part 2. General Information About You, #3: I suggest noting here that the applicant's complete address does not need to be included, for safety and confidentiality reasons, but that the city and state or zip code are required for biometrics scheduling purposes.
- Page 4, Completing Form I-914, Supplement A, Application for Family Member of T-1 Recipient:
  - I suggest clarifying that no I-914A may be filed once the T-1 has adjusted to permanent residence, no I-914A may be filed and no I-914A beneficiary may be admitted into the U.S. in T nonimmigrant status, as this is critical information for a T-1 to be aware of.
  - I suggest revising this language ("must be accompanied by a copy of the principal applicant's Form I-914") to state that any I-914A filed after the principal applicant's I-914 should be filed with a copy of the principal applicant's T-1 receipt or approval notice. In practice, a full copy of Form I-914 has not been required, and I am concerned that including such a copy could cause confusion by mailroom employees. (This requirement is also mentioned on page 7 of the

instructions.) Including a copy of the T-1 receipt or approval notice seems much more relevant in this context than a copy of a form that may or may not have been properly receipted by USCIS, and that may have already been denied.

- Page 5, Part 4, Q14: I suggest revising as follows: “Provide your relative’s current status, regardless of how ~~you~~ **they** entered...”
- Page 4, Part 7 (Interpreter’s Contact Information, Certification, and Signature): I suggest clarifying that no signature is required where phone interpretation is used and instead, the interpreter identification number and name of the interpretation company should be included, where applicable.
- Page 8, Evidence to Establish T Nonimmigrant Status: I suggest clarifying the language here, as the age-based cooperation exemption applies at the time of trafficking victimization, not the time of filing. Suggested new language: “...**unless you were under the age of 18 during any part of your trafficking.**” 3 USCIS-PM [B.2.D.5](#).
- Page 9, Evidence to Establish Derivative T Nonimmigrant Status: I suggest correcting the following sentence as follows: “If you are under 21 years of age at the time you file your application, USCIS will continue to consider your parent or unmarried sibling **to have the required qualifying relationship.**” As written, the current sentence is unclear as to what “consider” means. Also suggest clarifying that age-out protections exist beyond the date of adjudication of the T-1 application, as per the [T visa regulations](#). For example, if an I-914A is filed after the T-1 has turned 21 and after the I-914 has been granted, the derivative beneficiary still retains eligibility.
- Page 12, Processing Information: As written, it appears that both T-1 nonimmigrants and T derivatives are authorized to work incident to status. “If your application is approved, you will be authorized to work.” Suggest revising that initial sentence and clarifying that *only* T-1 nonimmigrants are authorized to work incident to status and need not present an Employment Authorization Document, while T derivatives must obtain an EAD. 8 CFR §§ 274a.12(a)(16), (c)(25).

### **Form I-914B**

- Page 1, Part 2 (Agency Information): The Apt., Ste., or Flr. number field does not accept a response. I suggest correcting this form error.
- Page 2, Part 3, Question 3: I suggest revising the following to: “Has the applicant expressed any fear of retaliation or revenge if **they had to depart from or were** removed from the United States?” Many survivors do not specifically express fears relating to removal, but rather, express fear of return or harm in home country generally.
- Page 3, Part 3, Question 4: Often, the dates of the criminal activity are a range rather than specific dates. I suggest revising this section so specific dates or a range of dates can be included.
- Page 3, Part 3, Question 6: I suggest the following: “Provide the date on which the investigation or prosecution was initiated, **if applicable.**” Sometimes an LEA will sign an I-914B even where a formal investigation has not been opened.

- Page 3, Part 3, Question 7: I suggest the following: “Provide the date on which the investigation or prosecution was completed, ~~if applicable.~~” An LEA may sign this form prior to the conclusion of the investigation or prosecution.
- Page 3, Part 4, Question 1D: I suggest revising this because the age of majority is relevant to when the trafficking took place, not the age at the time of LE involvement. 3 USCIS-PM [B.2.D.5](#). I suggest the following language here: “Was under the age of 18 at the time of the trafficking victimization.”
- Page 3, Part 5, Question 1: I suggest revising to “Are any of the applicant’s family members believed to have been involved in ~~his or her~~ the applicant’s trafficking ~~to the United States?~~” The current language is misleading because there is no requirement that an individual be trafficked *to* the U.S.; they could already be within the U.S. and trafficked once here, and a family member could be complicit in that trafficking in either scenario. Given that law enforcement is sometimes unfamiliar with trafficking or newer to the nuances of trafficking, I suggest making sure the language in this form and any guidance is clear.
- Page 4, Part 6, Question 2:
  - There is not always both a law enforcement officer and a supervisor of the certifying officer available to sign this form. For example, a unit chief could be both the investigating officer and the certifying official, or a judge may sign the form as the certifying official with the ability to detect trafficking. I suggest clarifying in the form and instructions how to handle in these situations to reduce barriers and encourage the form’s use.
  - Additionally, the form language is not entirely consistent with the T Visa Law Enforcement [Resource Guide](#), which could cause confusion and, therefore, reluctance to complete a Form I-914B. On page 4, Form I-914B seeks the signature of the “Law Enforcement Officer,” who is referred to in Part 2 (page 1) as the “certifying official,” and the “Supervisor of Certifying Officer.” The T Visa Law Enforcement Resource Guide states the following, which makes it seem like the *supervisor* is the one with certifying authority (in contrast to the form language): “Officials With Signing Authority: The supervising official responsible for the detection, investigation, or prosecution of severe forms of trafficking in persons at your law enforcement agency must sign Form I-914B. You are the supervising official of your agency if you are in a supervisory role and your agency has designated you a “supervising official.” There is also an area designated on the declaration for the signature of a law enforcement officer who is directly familiar with the case.” I would recommend clarification of the form language and accompanying instructions and/or the T Visa Law Enforcement Resource Guide so the information on who must sign and their respective role is clear in both places.

## **I-914B Instructions**

- Page 1, What is the Purpose of Form I-914 Supplement B?: I suggest citing, as early as possible in the instructions, to the regulations or policy manual language that provides examples of who can sign an I-914B, as well as to DHS's T Visa Law Enforcement [Resource Guide](#), so that potential certifiers do not have to go digging to ascertain if they are able to sign an I-914B.
- Page 1, When Should I Use Form I-914, Supplement B?: I suggest revising the existing language as follows: **"You do not need to formally launch an investigation or file charges to complete Form I-914, Supplement B. You may complete Supplement B if an investigation does not lead to an arrest or a prosecution. Additionally, you may complete Supplement B even if a victim decides to stop cooperating in an investigation or prosecution because they fall under the age-based exemption or trauma-based exception at 8 CFR § [214.11\(b\)\(3\)](#). Completing Supplement B is not contingent on the outcome of a prosecution or investigation. Completing Supplement B is at your discretion. There is no statute of limitations related to completing Supplement B."**
- Page 3, Part 3, 1B: I suggest clarifying the following language: "Sex trafficking where the victim ~~is~~ **was** under 18 years of age **at the time of the trafficking criminal activity**." (This should also be corrected on Page 3, Part 4.)
- Page 3, Part 6, Attestation: I suggest clarifying that in some instances, the investigating officer and the certifying supervisor may be the same individual.

Finally, when a new form version is issued, I would strongly urge a minimum of at least 60 days' notice that the edition date is changing and ideally 180 days, as the agency has provided in the past when the [I-918 and related forms were expiring](#), to avoid submission of outdated forms and additional burden on applicants, certifying agencies, legal representatives, and USCIS.

I appreciate the opportunity to comment on this proposed form extension. Thank you for your consideration.

Carson Osberg, Esq.