

United States Senate

WASHINGTON, DC 20510

June 15, 2023

Director Ur Jaddou
U.S. Citizenship and Immigration Services
Department of Homeland Security
245 Murray Lane, SW
Washington, DC 20528

Dear Director Jaddou:

We are writing to request that USCIS take steps to improve the implementation of the T visa program. As you know, the T visa program has been underutilized since its inception in 2000, and it experienced a marked increase in I-194 denials during the previous administration. Additionally, the strain placed on the immigration system at the height of the Covid-19 pandemic caused a significant spike in wait times for the processing of visa applications across the board.

We appreciate that the Biden administration has already taken several steps to address these concerns. We commend President Biden for rescinding the previous administration's guidance on the issuance of Notices to Appear (NTAs) to applicants of humanitarian visas at the start of his term. The recent progress in reducing wait times and increasing awareness of the T visa program has also been encouraging. We are also pleased to see that more than 3,000 T visas were approved during the 2022 fiscal year, including 1,715 T-1 visas.¹ However, given the humanitarian nature of these visas and the vulnerability of the applicants waiting to receive them, we encourage USCIS to take additional steps toward improving the efficiency and transparency of the program.

First, we encourage USCIS to issue Employment Authorization Documents (EADs) to T visa applicants while their applications are pending. As you know, T visa applicants can expect to wait roughly 18.5 months for a final decision, and during this period, they are unable to work.² This sets T visas apart from other humanitarian forms of immigration relief, such as U visas and the asylum process, both of which provide avenues for applicants to receive work authorizations while their applications are pending. Instituting a bona fide determination process similar to the U visa process, or a 180-day waiting period similar to the asylum process, would help to alleviate the economic hardship faced by trafficking survivors with pending visa applications.³ We hope to see USCIS develop a process for the issuance of EADs to T visa applicants.

Second, many trafficking survivors require a waiver of inadmissibility to qualify for a T visa. Traffickers often compel their victims to engage in a range of criminal behaviors to insulate

¹ 2022. "[Characteristics of T Nonimmigrant Status \(T Visa\) Applicants Fact Sheet](#)." United States Citizenship and Immigration Services.

² USCIS processing times accessed June 12, 2023: <https://egov.uscis.gov/processing-times/>

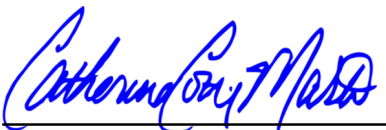
³ For information on the U visa process, see: <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20210614-VictimsOfCrimes.pdf> For information on the asylum process, see: <https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum/asylum-merits-interview-with-uscis-processing-after-a-positive-credible-fear-determination>

themselves from criminal charges. One survey finds that 62% of trafficking survivors have been arrested, detained or cited by law enforcement,⁴ and another shows that the range of charges faced by trafficking victims extend beyond prostitution-related offenses to charges such as drug possession and distribution, as well as human trafficking.⁵ We would like to see USCIS partner with advocacy organizations to implement training for immigration officers that promotes a broad understanding of the forced criminality—beyond prostitution—that trafficking victims endure, and the types of post-conviction relief they may encounter in applications. The issuance of waivers of inadmissibility should then be informed by this training.

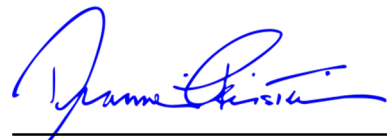
Third, we were pleased to learn from our conversation with USCIS that the agency maintains an email address that ICE officers can contact to expedite a T visa application if they believe a trafficking survivor is facing deportation. We would like to see USCIS broaden access to this email address to attorneys and advocates working with trafficking survivors. Individuals who leave the United States typically lose their T visa eligibility due to the “physical presence” requirement. Therefore, trafficking survivors in deportation proceedings or with final orders of removal need to see their T visa applications processed swiftly. Providing access to this email address to attorneys and advocates will help to ensure that trafficking survivors do not lose their visa eligibility due to deportation. Given the small number of T visa applicants who are placed in deportation proceedings each year, we believe that USCIS has the capacity to broaden this access without adding to existing backlogs.

We appreciate your consideration and look forward to your response.

Sincerely,



Catherine Cortez Masto
United States Senator



Dianne Feinstein
United States Senator

⁴ 2023. “[In Harm’s Way—How Systems Fail Human Trafficking Survivors Survey Results from the First National Survivor Study.](#)” Polaris.

⁵ 2016. “[National Survivor Network Members Survey: Impact of Criminal Arrest and Detention on Survivors of Human Trafficking.](#)” National Survivor Network.



**U.S. Citizenship
and Immigration
Services**

July 24, 2023

The Honorable Catherine Cortez Masto
United States Senate
Washington, DC 20510

Dear Senator Cortez Masto:

Thank you for your June 15, 2023 letter to the Department of Homeland Security (DHS). I am responding on behalf of the Department.

U.S. Citizenship and Immigration Services (USCIS) would like to emphasize that we are committed to implementing a victim-centered approach across all immigration benefit types, including the T visa program. Further, we are committed to fair and appropriate adjudication of all cases, with particular care and attention focused on the special considerations required of cases involving survivors of trafficking. We continue to look for ways to increase awareness and improve the implementation of the T visa program. USCIS has received 4,516 Forms I-914, Application for T Nonimmigrant Status, and 2,632 Forms I-914A, Supplement A, Application for Family Member of T-1 Recipient, so far this fiscal year, already surpassing last fiscal year's total number of filings. To date, USCIS has adjudicated 4,649 T visa applications, to include 1,459 T-1 approvals and the approval of 1,034 applications for qualifying family members.

Regarding your suggestion that USCIS issue Employment Authorization Documents (EADs) to T visa applicants while their applications are pending, USCIS understands the difficulties faced by survivors when presented with extended processing times as they attempt to stabilize. We have been exploring various options for issuing deferred action and employment authorization to T visa applicants in a timelier manner, including proposing such a process for public comment in the T visa Notice of Proposed Rulemaking.

The second topic discussed in your letter is waivers of inadmissibility for T visa applicants. You suggest that USCIS partner with advocacy organizations to implement training for officers that promotes a broad understanding of forced criminality often endured by victims of trafficking. USCIS engages with advocacy groups and other stakeholders on a regular basis to continuously learn about issues impacting vulnerable populations. Moreover, USCIS officers receive training on the dynamics of abuse and other pertinent issues before they begin conducting discretionary analyses, including inadmissibility-related determinations. When making a discretionary determination, USCIS considers whether there is a demonstrated nexus between the applicant's victimization and their criminal history. USCIS reviews all information provided by T visa applicants under the "any credible evidence" provision, including all information provided that demonstrates this nexus or that shows that the act was a survival-based

offense. It should be noted that there is broad waiver authority in the T visa program; officers have discretion to waive most grounds of inadmissibility that were caused by, or were incident to, the victimization.

Finally, your letter discusses the email address maintained by USCIS that provides an avenue for U.S. Immigration and Customs Enforcement (ICE) to request expedited processing of applications when a T visa applicant is facing deportation. You suggest that USCIS broaden access to this email address to attorneys and advocates working with survivors. The specified email address was created in response to a memo between ICE and USCIS, superseded by ICE Directive 11005.3: Using a Victim-Centered Approach with Noncitizen Crime Victims¹. The process developed with ICE is to ensure that T visa applicants in custody, or with a final order of removal, will receive expeditious processing of their applications. Inquiries sent to this email address must be submitted by ICE. Access has been limited to ICE personnel since the inception of the process to ensure Forms I-914 are processed promptly, thereby decreasing the risk of deportation due to adjudicative or administrative delays. If an inquiry is regarding an urgent humanitarian need, attorneys and representatives may wish to request expedited processing. More information regarding USCIS expedite requests can be found at <https://www.uscis.gov/forms/filing-guidance/how-to-make-an-expedite-request>. Attorneys or representatives of I-914 applicants may submit their expedite request to HotlineFollowUpI918I914.VSC@uscis.dhs.gov.

Thank you again for your letter and interest in this important issue. The cosigner of your letter will receive a separate, identical response. Should you require any additional assistance, please have your staff contact the USCIS Office of Legislative Affairs at (240) 721-3801.

Respectfully,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", with a long horizontal line extending to the right.

Ur M. Jaddou
Director

¹ <https://www.ice.gov/doclib/news/releases/2021/11005.3.pdf>