

# Pre-submitted Questions

## T Visa Final Rule Engagement

Thursday, Aug. 15, 2024  
2-3p.m. Eastern

### **Q1) Are there any changes in the documentation requirements for T visa applications?**

There are no changes to the documentation you must submit to establish eligibility for T nonimmigrant status. Please review the instructions for the Form I-914, Application for T Nonimmigrant Status, for a list of all required documents. This information is also on our webpage, Victims of Human Trafficking: T Nonimmigrant Status.

Links:

- [uscis.gov/sites/default/files/document/forms/i-914instr.pdf](https://uscis.gov/sites/default/files/document/forms/i-914instr.pdf)
- [uscis.gov/humanitarian/victims-of-human-trafficking-t-nonimmigrant-status](https://uscis.gov/humanitarian/victims-of-human-trafficking-t-nonimmigrant-status)

### **Q2) What is the expected processing time for T visa applications under the new rule?**

Right now we cannot project changes in processing times. Please visit our website to see actual processing times.

Links:

- <https://egov.uscis.gov/processing-times/>
- <https://egov.uscis.gov/processing-times/more-info>

### **Q3) What rights and benefits do T visa holders have under the new final rule?**

The rights and benefits T nonimmigrant holders receive do not change under the final rule, other than changes to the bona fide determination process. T nonimmigrants will continue to receive employment authorization and are eligible for certain federal and state benefits and services. See [acf.hhs.gov/orr/fact-sheet/fact-sheet-victim-assistance-english](https://acf.hhs.gov/orr/fact-sheet/fact-sheet-victim-assistance-english) for more information on these services.

### **Q4) Are there any changes in the duration of the T visa or the path to permanent residency?**

There are no changes to the duration of T nonimmigrant status or eligibility for adjustment of status, other than minor changes to 8 CFR 245.23 that simplify and increase access to adjustment of status. For more information, please see the After You Obtain T Nonimmigrant Status section on the Victims of Human Trafficking: T Nonimmigrant Status page.

**Q5) What resources are available to help T visa applicants understand and navigate the new rules?**

This engagement is intended to help potential applicants understand and navigate the T Final Rule. We are also updating USCIS' websites and related resources to reflect changes made in the T Final Rule.

We highly encourage you visit the USCIS webpage Victims of Human Trafficking: T Nonimmigrant Status, which provides information on many aspects of the T visa application process and links to other very helpful resources outside of USCIS. We will update this webpage effective Aug. 28 to reflect the changes and clarifications from the final rule.

**Q6) Are there any support services for T visa holders who are victims of trafficking?**

The final rule does not change the services available to T nonimmigrants, other than the provision of benefits through the bona fide determination process. T nonimmigrants will still receive employment authorization and are eligible for certain federal and state benefits and services. See the link to the Department of Health and Human Services' website.

Link: [acf.hhs.gov/orr/fact-sheet/fact-sheet-victim-assistance-english](https://acf.hhs.gov/orr/fact-sheet/fact-sheet-victim-assistance-english)

**Q7) How will the new rule affect T visa applications that are currently pending? Will there be any retroactive application of the new rules to existing T visa holders?**

The new rule will apply to applications for T nonimmigrant status that are currently pending, other than the bona fide determination process, as discussed. The only exception is that no pending application that was filed before Aug. 28, 2024, that would be eligible for T nonimmigrant status under the regulations in effect before the rule taking effect will be made ineligible by the rule taking effect. The Final Rule will not retroactively apply to nonimmigrants, other than the changes made to the adjustment of status regulations at 8 CFR 245.23, which were intended to reduce barriers to adjustment.

**Q8) Are there any anticipated future changes to the T visa program that stakeholders should be aware of? How can stakeholders stay informed about future updates or changes to the T visa program?**

At this time, USCIS does not have any other changes to share with stakeholders. To receive updates on the T visa program, please sign up to get updates by email on our website. Please check back regularly to see if there is a topic of interest.

Link: [public.govdelivery.com/accounts/USDHSCIS/subscriber/new](https://public.govdelivery.com/accounts/USDHSCIS/subscriber/new).

USCIS also has local community relations specialists throughout the United States. These CRSs are charged with communicating updates to stakeholders. To find the stakeholder assigned to your area please visit the link to find contact information for our outreach team.

Link: [uscis.gov/citizenship-resource-center/outreach-tools/learn-about-the-civics-and-citizenship-toolkit/uscis-community-relations-specialists](https://uscis.gov/citizenship-resource-center/outreach-tools/learn-about-the-civics-and-citizenship-toolkit/uscis-community-relations-specialists).

**Q9) Will I-914 and I-914A applications pending prior to the effective date of the final rule be adjudicated under the regulations in effect at the time of filing or at the time of adjudication?**

We will adjudicate applications for T nonimmigrant status under the regulations in effect at the time of adjudication, unless the regulations in effect at the time of adjudication would render someone ineligible when the prior regulations would not.

**Q10) When an I-290B is filed on an I-914 or I-914A that was filed prior to the effective date of the final rule, will the interim or final regulations apply? Does the answer to the preceding question change depending on whether the I-290B was filed prior to the effective date of the final rule or after?**

We will adjudicate Form I-290B based on the regulations in effect when we adjudicate the Form I-914 or I-914A, regardless of when the Form I-290B was filed.

**Q11) Can USCIS provide any insight into how it plans to process I-914 applications in light of the bona fide determination process primarily applicable to filings submitted after the rule's effective date? Will it adjudicate I-914 applications in receipt order first and then turn to conducting bona fide reviews of applications filed after the final rule effective date, or will it begin conducting bona fide reviews of new applications while continuing to adjudicate previously filed applications? If the latter, how does USCIS plan to ensure that cases filed prior to the final rule effective date are not disadvantaged in terms of timely access to work authorization and other benefits and protections available to those with bona fide determinations?**

At this time, we intend to conduct bona fide reviews for new applications filed on or after August 28, 2024, while continuing to conduct full adjudications for T nonimmigrant status of applications filed before the effective date. The bona fide determination process is divided so that certain workstreams are dedicated to conducting the bona fide review, while others are solely dedicated to adjudication. If applicants filed their Form I-914 before the effective date of the rule, they generally will not be considered for bona fide determination and should not refile to seek a bona fide determination. Doing this will extend the processing times for bona fide determination and T visas significantly, leading to increased processing times for all applicants, and delaying important benefits for survivors of trafficking.

**Q12) *Bona fide review (meaning of “complete”):* 8 CFR § 214.205(a)(2)(i) states that an applicant’s application for T nonimmigrant status must be “properly filed and complete” in order for USCIS to conduct a bona fide review. The preamble does not specify the criteria USCIS will use to determine whether an application is “complete.” Could USCIS clarify the required elements for a “complete” application under this section?**

A complete application is one completed and filed in accordance with form instructions and in compliance with 8 CFR 103.2(b). That is, the application must be fully filled out, properly signed by the applicant, and filed with all initial evidence required by applicable regulations and other USCIS instructions.

**Q13: *Bona fide determinations (national security):* Can USCIS discuss what types of national security issues might prevent USCIS from determining an application is bona fide under 8 CFR § 214.204(d)?**

National security concerns are those listed in INA 212(a)(3).

**Q14: *Bona fide determinations (discretion & deferred action):* Can USCIS explain what factors it will consider in determining whether to favorably exercise discretion and issue the applicant deferred action as laid out in 8 CFR § 214.205I? Can USCIS provide examples of when it may decide not to issue deferred action for an individual whose application has been deemed bona fide?**

Where a principal applicant or eligible family member has been convicted of or arrested for certain acts, we may not issue deferred action and a bona fide determination Employment Authorization Document (EAD). Instead, we may proceed to secondary review, which involves a full adjudication of T nonimmigrant eligibility for the principal applicant and any family members. Factors that may weigh against a favorable exercise of discretion include national security and public safety concerns, which include, but are not limited to:

- Murder, rape, or sexual abuse;
- Offenses involving firearms, explosive materials, or destructive devices;

- Offenses relating to peonage, slavery, involuntary servitude, and trafficking in persons;
- Aggravated assault;
- An offense relating to child pornography; and
- Manufacturing, distributing, or selling of drugs or narcotics.

We may determine that other adverse factors beyond those listed above weigh against a favorable exercise of discretion.

However, we may also exercise discretion favorably despite the above concerns, if warranted based on the totality of the circumstances. We will include additional information in our Policy Manual updates that will publish in the coming weeks.

**Q15) Will USCIS issue deferred action to T applicants in removal or who have a final order of removal?**

The fact that an individual is in removal proceedings or has a final order of removal will not prevent them from receiving deferred action and employment authorization under the bona fide determination process.

**Q16) *Derivative bona fide determinations*: The preamble indicates that USCIS *generally* will not grant bona fide determination-based deferred action and employment authorization to a derivative applicant unless the T-1 applicant has received a positive bona fide determination. If USCIS does not conduct a bona fide review of a T-1's I-914 and instead grants it but issues a Request for Evidence on the I-914A, will USCIS conduct a bona fide review of the I-914A?**

If we issue a Request for Evidence (RFE) for a Form I-914A, and when we review the RFE response we determine the Form I-914A is bona fide and that an exercise of discretion is warranted, we will grant deferred action and employment authorization. We may only grant a bona fide determination for a derivative after we grant a bona fide determination (or T nonimmigrant status) for the principal. Likewise, if a principal's Form I-914 is referred for secondary review, the derivative's Form I-914A will also be referred for secondary review.

**Q17) Similarly, if an I-914A is filed after the effective date of the final rule in connection with an I-914 filed prior to the effective date, will the I-914A be given a bona fide review?**

If a Form I-914 is filed before the effective date, but the Form I-914A is filed after, the Form I-914A will not receive a bona fide determination review. As previously stated, all filings for derivatives must follow the same adjudicative path as the principal's filing.

**Q18) *Bona fide determination EADs*: Does the preamble's recommendation to include a (c)(40) I-765 apply to I-914 and I-914A applications filed after publication of the final rule but before its effective date, or only to those**

## **applications filed after the effective date?**

It applies only to those filed after the effective date.

**Q19) Expedite requests: When Immigration and Customs Enforcement requests that USCIS expedite an application for T nonimmigrant status in accordance with ICE Directive 11005.3, *Using a Victim-Centered Approach with Noncitizen Victims* after the final rule effective date, will USCIS expedite a full review of the I-914/I-914A or will it instead expedite a bona fide review of the pending application?**

When Immigration and Customs Enforcement (ICE) requests to expedite a Form I-914, we will first conduct a bona fide determination review. If we determine the application is not bona fide, we will refer the case for secondary review, which will address all deficiencies in the record.

**Q20) *Physical presence (departure & reentry for services)*: New 8 CFR § 214.207(b)(5) allows applicants to potentially establish physical presence following a departure from the U.S. if they returned to the U.S. and received treatment or services related to their victimization that cannot be provided in their home country or last place of residence. Can USCIS provide any insight into the factors that will be considered in evaluating eligibility under this new regulation? Will future Policy Manual updates include more context for this new provision so that applicants and their representatives can properly assess eligibility?**

The Policy Manual updates will include more context for this new provision. However, generally, we expect an applicant to provide evidence that they could not get treatment or services in the relevant country using any credible and probative evidence, such as country conditions, a personal statement from the applicant describing their attempts, or evidence from a subject matter expert. In addition, the applicant must also provide probative and sufficient evidence that they actually received the treatment or services in the United States.

**Q21) *Physical presence (departure & participation in investigative or judicial processes)*: 8 CFR § 214.207(b)(4) covers an individual whose “presence in the United States is on account of their past or current participation in investigative or judicial processes associated with an act or perpetrator of trafficking, regardless of where such trafficking occurred.” Does this provision allow an individual who departed the U.S. after their trafficking ended to establish their physical presence due to participation in investigative or judicial processes *regardless of when the participation occurred*? For example, does the provision cover those who participated in an investigative or judicial process exclusively prior to the departure and reentry, or must at least some participation occur after the departure and reentry for this provision to apply?**

The timing of the participation for this provision is not generally the determining factor; the most important factor is that the current presence is directly related to that participation. It will likely be difficult for individuals to establish that their current presence is related to participation that occurred exclusively before their departure and reentry, although it may be possible to do so.

**Q22) Staffing: At the April 2024 Freedom Network Conference, the Vermont Service Center reported that there are currently 34 officers working on I-914 filings, with a plan to hire 8-10 more officers in the following months. Can USCIS provide an update on the hiring of these officers?**

The Vermont Service Center recently trained 10 more officers on the T nonimmigrant workload, bringing the total number to 44.

**Q23) How will the bona fide determination process impact staffing, and can USCIS provide any insight into whether there will be additional officers hired specifically to process bona fide determinations? Should practitioners expect to start seeing issuance of T bona fide determinations in connection with the final rule this fall?**

We are dedicating a group of employees trained in conducting bona fide determination reviews to this workload. We have developed the process to reduce the impact on full adjudication of T applications. Bona fide determination reviews will begin when the T Final Rule becomes effective on August 28, 2024. Because we cannot project the receipt volume at this time, we cannot estimate when practitioners may begin seeing issuance of T bona fide determinations.

**Q24) Processing: Can USCIS provide any information on whether it anticipates reaching the T visa cap this year based on current processing rates?**

USCIS cannot provide any information on reaching the cap at this time.

**Q25) Hotline communication: In June 2024, USCIS reported at a stakeholder meeting that the approximate wait-time for VAWA, U, and T-related inquiries was 120 days. At the April 2024 Freedom Network Conference, USCIS reported at a T visa panel that responses from [HotlineFollowupI918I914.vsc@uscis.dhs.gov](mailto:HotlineFollowupI918I914.vsc@uscis.dhs.gov) on I-914-related inquiries were taking approximately 60 days. Could you share the latest wait-times for T visa-related hotline inquiries?**

Current hotline response times for [Form I-914](#), Application for T Nonimmigrant Status, are approximately 120 days.

**Q26) Has there been any further consideration of creation of a hotline specific to T visa-related inquiries, given growing case numbers and customer service response times?**

USCIS has not had further discussions regarding the creation of a T-visa specific hotline account.

**Q27) *Biometrics*: Are applicants below the age of 14 or above the age of 79 required to submit biometrics? New 8 CFR §§ 214.204(k) & 214.211(c)(1) seem to indicate that all T-1 and T derivative applicants must submit biometrics regardless of age.**

A biometrics services appointment for fingerprint collection at an Application Support Center (ASC) is required for individuals over 14 years of age but under 79 years old. If a child is under 14 but is issued a bona fide determination EAD, they may still be required to attend a biometrics services appointment at an ASC in order to submit a photo.

**Q28) *Readmission of T derivatives*: Does 8 CFR § 214.211(b)(1)(ii) mean that a previously admitted T derivative whose status has lapsed may not be readmitted into T nonimmigrant status if the T principal has already adjusted status?**

A derivative can file for an extension of status if the T-1 nonimmigrant remains in valid T nonimmigrant status. See 8 CFR 214.212(b). For derivatives outside the United States, the Department of State will not issue a T visa to a derivative if the T-1 has already adjusted.

**Q29) Can you provide additional guidance regarding the changes in how smuggling, domestic violence, and labor exploitation will be analyzed to determine if they rise to trafficking, based on the Final Rule?**

We have seen confusion among stakeholders regarding when smuggling, domestic violence, and labor exploitation may rise to the level of a severe form of trafficking in persons. In many cases, individuals have conflated these other forms of abuse with trafficking. The T Final Rule does not change how cases will be analyzed, but the preamble provides additional guidance and examples that we hope will be helpful to the public. The language added to the preamble either comes directly from existing policy manual guidance or is consistent with existing practice. For example, DHS acknowledged that traffickers may have multiple motives simultaneously, and that trafficking rarely occurs in a vacuum. The preamble then discusses some examples of smuggling and when it may constitute trafficking. There will also be additional updates to the Policy Manual that will provide additional clarity and transparency to stakeholders on these complex issues.