U.S. Citizenship and Immigration Services

Public Engagement Division

Questions and Answers Stakeholder Engagement with the American Immigration Lawyers Association VAWA, U, T National Committee

Engagement Date: Nov. 14, 2024

Background
U.S. Citizenship and Immigration Services (USCIS) conducted a stakeholder engagement on Nov. 14, 2024, with AILA's VAWA, U, and T National Committee. Please note that some of the stakeholder questions below may have been revised for clarity.

Receipts, Communication with USCIS, and Mail & Address Issues

Q1. Practitioners continue to report significant delays and/or receiving no response to hotline inquiries that require a response—for example, inquiries regarding expedite requests, correcting USCIS errors in client names, missing receipts and Employment Authorization Documents (EADs), biometrics rescheduling, document correction, and cases beyond processing times. At its June 18, 2024, stakeholder meeting, USCIS stated that hotline response times for Form I-918, Form I-914, and Form I-360 hotlines at the Nebraska Service Center (NSC) and Vermont Service Center (VSC) are approximately 120 days. Is that still the case, and if so, what is USCIS doing to reduce response times and ensure all inquiries are responded to?

A1. USCIS is currently working inquiries for the Form I-918, Form I-914 and Form I-360 hotline accounts received in **July 2024**. The hotline accounts saw a dramatic increase of approximately 44 percent in the number of inquiries received from fiscal year 2023 to FY 2024. Though there was a significant increase in inquiries received, we also increased the number of requests responded to, answering just over 105,323 inquiries in FY 2024. To reduce response times, we are adding additional staff to help handle the increased

workload. We also prioritize inquiries like Form G-28 updates, address changes and expedite requests. These reminders may help reduce processing times:

- Please read the hotline bounce back messages carefully, as they contain important information about current processing times.
- If a case is not outside normal processing times, we will not respond to a case status inquiry. Please check current form processing times before you submit your inquiry.
- Please do not submit multiple inquiries for the same issue via email and postal mail. The same teams process both types of inquiries so submitting duplicate inquiries slows response times significantly.
- In prior engagements, we have asked representatives to note in the subject line that an inquiry is an expedite request. We also recommend that practitioners specify other types of inquiries in the subject line so we may efficiently prioritize requests. For example, if you are emailing a request to update an individual's representative, write "Updated G-28" in the subject line.
- Whenever possible, applicants and petitioners should use the Contact Center for case questions. Please do not send duplicate inquiries for the same issue to the hotline accounts or via postal mail.

Q2. When should practitioners contact the appropriate hotline to follow up on a delayed receipt notice, and what documents should be provided to help USCIS locate a filing (for example, Form G-28, delivery confirmation, tracking number)?

A2. Generally, if the practitioner, applicant, or petitioner has not received a receipt notice for their filing **within 30 days**, it is appropriate to contact the hotline accounts or USCIS Contact Center. As stated previously, please do not submit multiple inquiries for the same issue, as this will delay response times.

Q3. If practitioners filed multiple applications due to a "lost" filing and later received multiple receipt notices with different receipt numbers, how should they notify USCIS to address this issue?

A3. If a practitioner receives multiple receipt notices for a filing, you may contact the hotline accounts to ask us to administratively close additional filings as duplicates.

Q4. Practitioners have reported instances when USCIS did not receive initial filings or responses to Requests for Evidence (RFEs) and Notices of Intent to Deny (NOIDs), despite delivery confirmation from the shipping service. What steps is USCIS taking to

improve intake procedures and intake timelines so that receipts are issued within 30 days for all new filings and RFE and NOID responses and supplemental filings are properly routed to the file?

A4. USCIS is committed to issuing receipt notices in a timely manner. To centralize and streamline intake processing, we have shifted most 1367-protected forms to the NSC for intake processing. Currently, for Form I-918, Form I-914, and VAWA-based Forms I-360, we are completing intake processing for cases filed on or after **Oct. 18, 2024**. We recently hired additional staff to assist with intake processing and adjudication support duties, such as routing RFE and NOID responses to their proper location.

Q5. Legal representatives are continuing to report instances where the VSC and NSC are not properly recording the entry of appearance of new counsel and instead, continue to send correspondence to prior counsel. What is USCIS doing to ensure that Forms G-28 are timely processed and that all correspondence is subsequently sent to the legal representative of the applicant's choosing?

A5. We are adding additional staff to help handle the increased customer service workload, which will allow us to process inquiries timelier. We also prioritize inquiries such as Form G-28 updates and address changes. We recommend that attorneys and representatives note the type of inquiry in the email subject line so we can efficiently identify requests and prioritize them appropriately.

Q6. Practitioners are reporting instances where VAWA/U/T applicants are receiving EADs, receipts, and approval notices at their home address or a prior address (such as the address of their abusive spouse) instead of at their safe address. Can USCIS provide any information on how these errors are occurring and what concrete steps practitioners and pro se applicants can take to prevent them as much as possible?

A6. Under our safe address policy, we review every form individually to determine where to send notices and correspondence to support a victim-centered approach. For this reason, if you want to change your address, you must change your address for each individual form you filed with USCIS. Filing a form with a new address will not automatically update your address on previous filings. The best way for VAWA/T/U benefit requestors and holders to update their address is by reaching out to the USCIS Contact Center. Before calling the USCIS Contact Center, 8 U.S.C. 1367-protected individuals should have their receipt notice available for the particular form they are requesting an address change for.

Practitioners should have their clients contact the Contact Center to change their address or use the existing email hotlines to change their client's address. Practitioners should include the relevant receipt numbers to ensure we update the correct forms. For more information, visit the USCIS webpage on Change of Address Procedures for VAWA/T/U Cases and Form I-751 Abuse Waivers.

Q7. Some practitioners report instances where RFEs, NOIDs, denials, and approvals are issued but are never received by the attorney or applicant at the designated mailing address. This issue has been observed in Form I-918, Form I-914, VAWA Form I-360, and U and T adjustment cases, both in cases where an updated G-28 or change of address has been filed and where there has been no change in representation or address. In many of these cases, neither the attorney nor the applicant received an RFE, but they received a denial for abandonment. Does USCIS have a method to track when an RFE, NOID, or decision has been issued and if it was mailed to the correct address?

A7. We use a centralized system to issue RFEs, NOIDS, and denials. We also use a centralized system to issue approval notices. As part of the adjudication process, officers verify that the correct designated mailing address is updated in our case management systems. However, there are instances when we issue a notice before we update our case management systems with an address change.

Q8. What steps should practitioners take when they discover that an RFE, NOID, or decision was sent to an incorrect address or was never received at the address on file?

A8. Practitioners can notify the hotline accounts if they did not receive a notice at the designated address or it was sent to an incorrect address. Applicants and petitioners can contact the USCIS Contact Center to notify us of any address errors. Please do not submit a duplicate inquiry via the hotline accounts or postal mail if an inquiry was already submitted to the USCIS Contact Center.

Q9. Where the nonreceipt of an RFE or NOID stems from a USCIS error and the case has already been denied, will USCIS sua sponte reopen? If so, how should practitioners and pro se applicants make such a request?

A9. Yes, if an abandonment denial is issued due to USCIS error, we will review the case and reopen it if appropriate. Practitioners may notify the hotline accounts of an abandonment denial that appears to be in error. This process does not relieve benefit requestors or their representatives of the requirement to seek administrative review following a denial.

Please do not submit a duplicate inquiry via the hotline accounts or postal mail if an inquiry was already submitted to the USCIS Contact Center. We will review both the inquiry and USCIS system information to determine whether there was a USCIS error in the case.

Q10. When the missing correspondence is the individual's Form I-94, will USCIS reissue without a Form I-102 if the document was not received due to a USCIS error in updating the address?

A10. Yes, if a Form I-94 was not received due to USCIS error, we will reissue the Form I-94.

Q11. We greatly appreciate USCIS' efforts with the Department of State to improve access to biometrics appointments and consular interviews for U and T visa applicants outside the United States. However, legal representatives continue to report difficulties scheduling biometrics appointments at USCIS offices in El Salvador, Guatemala, Honduras, and Mexico due to appointment unavailability or website error messages. Additionally, legal representatives have reported receiving multiple biometrics RFEs despite having completed biometrics at consular posts (for example, Santo Domingo and Quito). In at least one case, USCIS issued a second request for biometrics to be completed outside the United States, even though the prints were taken electronically by a USCIS international field office. Can USCIS explain what steps it is taking to ensure timely access to biometrics appointments at its international field offices and provide recommendations for applicants and practitioners trying to schedule appointments?

A11. Guatemala, Honduras, and Mexico use InfoPass to schedule biometrics appointments. The attorney or beneficiary can make the appointment at my.uscis.gov/en/appointment/v2.

Field office directors report that this system is working and that beneficiaries can use it to make appointments. If an attorney or beneficiary cannot schedule an appointment via InfoPass, they should contact the field office via the specific office's public inquiries box.

El Salvador, Ecuador, and Havana currently schedule appointments by email using their public inquiry boxes. The field office will respond back to schedule the appointment.

Please also see USCIS' published correspondence on biometrics for U visa petitioners and T visa applicants outside the United States for additional information on biometrics collection for these populations:

uscis.gov/sites/default/files/document/foia/BiometricsforUandTVisaApplicantsAbroad-Velez.pdf.

Q12. Can you describe how prints are transmitted from consular posts and USCIS offices outside the United States to the service centers and explain why multiple biometrics requests might be issued in a case where prints have already been taken electronically?

A12. The Department of State's biometrics collection technology is not interoperable with USCIS', and consular officers cannot access USCIS biometrics equipment and systems to take electronic fingerprints. Where USCIS does not have a permanent office (for example, Santo Domingo), consular officers may agree to take fingerprints manually on an FD-258, then mail the card to the United States to be entered into the USCIS system. This can take time, and it is possible that we may send a second notice before the fingerprints are successfully entered. In addition, if the quality of the manual fingerprints is poor, they may need to recollect and resubmit them.

Q13. Is there specific documentation that applicants should request at consular posts or USCIS offices outside the United States to confirm that biometrics have been collected?

A13. USCIS overseas offices will provide a copy of the biometrics appointment notice back to the beneficiary signed and dated by the officer reflecting that biometrics were collected. This notation is typically done with a stamp, but may also be handwritten. The Department of State does not provide copies of their biometric collection confirmation to applicants.

Q14. Has USCIS considered updating overseas biometrics notices to indicate that prints may be taken electronically? Some applicants and practitioners are confused by the language exclusively referencing the FD-258.

A14. Electronic collection is only possible for collections done at the limited number of USCIS international offices. Electronic collection is not possible for biometrics collections at Department of State locations.

Q15. Per Vol. 1, Part C, Chapter 2.B of the USCIS Policy Manual, Immigrations and Customs Enforcement's (ICE's) Enforcement and Removal Operations (ERO) is responsible for completing background and security checks for individuals in

immigration custody who have applications pending with USCIS. AILA is aware of at least one recent case where ICE refused to complete biometrics collection for a detained applicant and other cases where completing biometrics required significant advocacy by the applicant's counsel. How can practitioners request assistance from USCIS when a client is detained in ICE custody and ICE refuses to complete biometrics per intradepartmental agreement or delays such collection? Additionally, can USCIS use biometrics collected during ICE encounters to satisfy the biometrics requirement in these cases?

A15. USCIS is involved in ongoing discussions with ICE to address these types of cases.

Because USCIS is not a law enforcement agency, it is unable to use fingerprints collected by ICE for law enforcement purposes.

Survivors Who Are Detained or Have a Final Order of Removal

Q16. ICE Directive 11005.3, Using a Victim-Centered Approach with Noncitizen Crime Victims, states at 2.1 that ICE will defer enforcement against an applicant or petitioner for victim-based relief "until USCIS makes a negative bona fide or prima facie determination." If it determines that a pending U or T application is not bona fide or that a VAWA self- petitioner has not established prima facie eligibility, does USCIS inform both ICE and the applicant of its determination, in a case where ICE has sought an expedite under the directive and other guidance?

A16. If we deny a VAWA Form I-360, we update internal databases to reflect that decision. ICE can view this information in both expedite and non-expedite cases. However, cases that do not receive prima facie determination are not denied, and there is no accompanying system update. There is no due date or requirement to meet prima facie determination eligibility, and we do not notify ICE in these cases.

Q17. When ICE requests an expedite for an individual with a pending Form I-918 or Form I-918A who is detained or has a final order of removal, does USCIS first conduct a bona fide review? If USCIS determines that the case is not bona fide, does USCIS then conduct a full eligibility review?

A17. Yes, if we determine a U petition is not bona fide, we will consider it for full waiting list review.

Q18. Given that practitioners have reported confusion between the Office of the Principal Legal Advisor (OPLA) and ERO about expedite request procedures, can you confirm that ICE should direct expedite requests for an individual who is detained or has a final order of removal to LawEnforcement_UTVAWA.VSC@uscis.dhs.gov? What information should be included with the request?

A19. There is a designated email address for ICE to submit expedite requests for detained individuals and individuals with final orders of removal. ICE should specifically state they are requesting expedited processing, and whether the individual is detained or has a final order of removal. If ICE has the individual's A-File, they should be prepared to send the file to the appropriate service center so we can process the expedite request. Please note, USCIS cannot complete the expedite request without the A-File. If there is confusion over the correct channels to make this request, USCIS can connect with ICE to clarify.

T Visas

Q20. We are grateful for the recent change to the T visa regulations, which now allow access to work authorization for applicants with bona fide Form I-914 and Form I-914A applications. Under the new T bona fide determination process, if USCIS determines that a Form I-914 or Form I-914A is not bona fide, will you issue a notice to the applicant indicating this determination?

A20. Yes, if USCIS determines that an application is not bona fide, we will notify the applicant.

Q21. During its Aug. 15, 2024, stakeholder engagement on the T final rule, USCIS indicated that it will first conduct a bona fide review if ICE requests that USCIS expedite an application for T nonimmigrant status for an individual who is detained or has a final order of removal. If ICE requests an expedite of a Form I-914A petition, will USCIS necessarily expedite review of the principal applicant's Form I-914, as well?

A21. If ICE requests expedited processing of a Form I-914A, USCIS will also review the Form I-914 and make a bona fide determination. Regulations state that a derivative's application can only be found bona fide if the principal's application is found bona fide.

Q22. If USCIS issued an RFE on a Form I-914 *filed before Aug. 28, 2024*, and the RFE was issued before the final rule's effective date and is due after the effective date, will USCIS apply the bona fide determination process, assuming the Form I-914 is still pending adjudication?

A22. In this instance, USCIS would not conduct a bona fide determination.

Q23. If so, at what point would such an application be reviewed for a bona fide determination?

A23. We will conduct bona fide determinations for any Form I-914 or Form I-914A received on or after Aug. 28, 2024. For cases that require an RFE after Aug. 28, 2024, we will conduct a bona fide determination when we issue the RFE.

Q24. Our understanding is that USCIS has historically considered that principal and derivative ages are considered "frozen" at the time of Form I-914 filing, regardless of whether the age-out happened before or after the Form I-914 was approved. USCIS has previously indicated that the "operative date" is the Form I-914 filing date. With the addition of "while the principal's application is still pending" language in the final T visa rule (in 8 CFR §§ 214.211(e)(2)(i) and (e)(3)(i) & (iii)), can you confirm whether USCIS now considers the age-out protections as applying only if the age-out occurs while the Form I-914 is pending?

A24. These changes conform the regulations to the statutory text at INA 214(o)(4), which only applies the age-out protections if the child turns 21 after the principal's application for T Nonimmigrant status is filed, **but while it is pending**.

Q25. If that's the case, what can USCIS do to ensure that derivative and principal applications are expedited to avoid such age-outs and to ensure that hotline responses to related expedite requests are consistent with USCIS' current interpretation of the statute and regulations? Often, trauma and resource issues impact the timing of filing T applications, and prolonged family separation can have a significant impact on survivor stability and recovery.

A25. Please visit uscis.gov/forms/filing-guidance/expedite-requests for information about how to request expedited processing. We recommend that practitioners include "Expedite Request" in the subject line of their inquiry so the Customer Service team can properly and efficiently identify the request. We also recommend that in the body of the email, practitioners clearly state that you are submitting the expedite request in advance of a derivative "aging out."

Q26. Additionally, in furtherance of family reunification goals, may a Form I-914 applicant request that USCIS slow down adjudication of the Form I-914 where an age-out is imminent or USCIS cannot expedite the Form I-914A adjudication?

A26. We cannot hold adjudication of Form I-914 due to a derivative potentially aging out. Per INA 214(o)(4), an unmarried child who was under 21 years of age on the date their parent filed their Form I-914 will continue to be classified as a child if the child turns 21 after the parent's application was filed, but while it was pending.

U Visas

Q27. Similarly, our understanding is that previously, principal and derivative ages were considered "frozen" at the time of Form I-918 filing, regardless of whether the age-out happened before or after the Form I-918 was approved, and that now, USCIS interprets the statute as requiring the Form I-918 to be pending for age-out protections to apply. Can you confirm whether USCIS considers the age-out protections as applying only if the age-out occurs before I-918 approval?

INA 214(p)(7) states that the age-out protection applies if the individual turns 21 after the principal's petition is filed but while the principal petition is still pending. Therefore, for principal petitioners who are under 21 at the time of filing but turn 21 while their Form I-918 was pending:

- Their parents will remain eligible for U-4 consideration despite the principal turning 21 while their Form I-918 was pending.
- Their siblings will remain eligible for U-5 consideration if the sibling was under the age of 18 and unmarried when the Form I-918 was filed and remains unmarried.

For principal petitioners over 21 at the time of filing:

- Their children will be eligible for U-3 consideration if they were under 21 when the Form I-918 was filed but turned 21 while the Form I-918 was pending and before approval.

Q28. If that's the case, what can USCIS do to ensure that derivative and principal applications are expedited to avoid such age-outs and to ensure that hotline responses to related expedite requests are consistent with USCIS' current interpretation of the statute?

A28. The best practice is to file the Form I-918A concurrently with the Form I-918 filing or soon after, to ensure that derivative petitions can be considered at the same time as the principal's filing. This is not only beneficial for age-out related reasons, but also to ensure that derivatives have access to bona fide determination or waiting list review while they wait for visa numbers to become available. Please visit uscis.gov/forms/filing-guidance/expedite-requests for information about how to request expedited processing. We recommend that practitioners include "Expedite Request" in the subject line of their inquiry so that the Customer Service team can properly and efficiently identify the request. In the body of the request, we also recommend that practitioners clearly state you are submitting the expedite request before a derivative "ages out."

Q29. Finally, would USCIS consider revisiting this interpretation to protect all derivative applicants, regardless of whether they age out before or after the principal's Form I-918 has been approved?

A29. USCIS is bound by the current language of the statute.

U & T Visas

Q30. If a noncitizen is a lawful permanent resident (LPR) but would prefer to hold U or T nonimmigrant status, can they use Form I-407 from within the United States to voluntarily relinquish (abandon) that status? If so, how should they complete Part 1, Item 13, which provides forced-choice answer options about the basis for the Form I-407, none of which involve simple voluntary relinquishment of status within the United States?

A30. Abandonment of LPR status occurs when a noncitizen demonstrates their intent to no longer reside in the United States as an LPR **after leaving the United States**. Form I-407 should be used **only** by individuals who wish to record the abandonment of their LPR status. By filing Form I-407, an individual knowingly, willingly, and affirmatively waives their right to a hearing before an immigration judge. The form is intended for use by LPRs who are outside the United States or at a port of entry who wish to abandon their status. Individuals who were admitted into the United States as nonimmigrants or paroled in after abandoning a prior LPR status may also use the Form I-407 to record that prior abandonment.

Q31. When a U or T principal applicant passes away, does USCIS still follow PM-602-0017 (page 7) to consider whether one of the derivative applicants could qualify as the

principal applicant and allow them to proceed as though they had been the U-1 or T-1 applicant in terms of processing order and visa allocation?

A31. Yes, USCIS adjudicates derivative cases under PM-602-0017. Please note, this policy memo was superseded by the USCIS Policy Manual, Volume 7, Chapter 9. Please visit uscis.gov/policy-manual/volume-7-part-a-chapter-9 for specific requirements to qualify under this provision.

Q32. Can you please explain the process for updating a Form I-192 waiver when an individual with an approved Form I-918, Form I-918A, or Form I-914A is consular processing and the consular officer identifies additional grounds of inadmissibility?

A32. Generally, when additional grounds of inadmissibility are identified by the Department of State, a State Department representative will contact USCIS to notify us of additional grounds of inadmissibility. We then review the petitioner's file, noting the information obtained from the Department of State, and amend the Form I-192 as appropriate. After we amend the notice, we send a copy to the Kentucky Consular Center for uploading into consular databases. We also send a copy to the safe address of record.

Q33. Additionally, how can practitioners ascertain when the waiver has been amended so that the client can proceed with their interview?

A33. Representatives will receive an amended copy of the Form I-192 approval notice. At that time, the petitioner may request an appointment with the Department of State for visa processing.

Q34. What is the correct filing location for a Form I-290B Motion to Reopen a Form I-918, Form I-918A, Form I-914, or Form I-914A adjudicated by the Vermont Service Center? Although 8 CFR § 103.5(a)(1)(iii)(E) indicates that Form I-290B should be submitted "to the office maintaining the record upon which the unfavorable decision was made for forwarding to the official having jurisdiction," the USCIS website states that Form I-290B should be filed with the Nebraska Service Center for these applications.

A34. You should file all Forms I-290B based on Form I-918, Form I-918A, Form I-914, and Form I-914A with the Nebraska Service Center. NSC now completes intake processing for these forms.

Q35. When a denial notice indicates to file Form I-290B in one location, but the USCIS website states a different filing location, which instruction takes precedence?

A35. At this time, applicants and petitioners should follow the instructions provided in their denial notice. We have updated address information on the notices and the USCIS website for responding to requests for evidence, denials, and other correspondence.

U & T Adjustment of Status

Q36. Does USCIS have an official interpretation or policy on how to count days for calculating continuous physical presence in U and T status under INA § 245(l)(3) & (m)(2)? Specifically, do travel days count as days inside or outside the United States?

A36. USCIS has not published an official interpretation or policy on how to count days for calculating continuous physical presence for U and T adjustment applicants. As a general rule, we include the date of admission as a T/U nonimmigrant and the date of departure from the United States while in T/U nonimmigrant status as days inside the United States.

VAWA

Q37. Practitioners report issues with VAWA-based Forms I-824, including adjudication delays well beyond the posted processing times and processing issues with USCIS and the National Visa Center (NVC) after Form I-824 approval. What is USCIS' procedure and time frame for transferring cases with approved Forms I-824 to the NVC after approval? If USCIS does not promptly transfer an approved Form I-824 to the NVC, how should practitioners follow up with USCIS?

A37. Form I-360 officers at USCIS' HART Service Center adjudicate VAWA-based Forms I-824 after we approve the underlying petition. We send correspondence on approved Forms I-824 to the NVC soon after the adjudication. If NVC customer services reports not receiving notification, please contact the USCIS Contact Center.

Q38. Practitioners report that during VAWA adjustment interviews, local field officers continue to ask detailed questions about the relationship and abuse applicants survived. This often becomes the primary line of questioning and may last for 20 to 30 minutes or more, retraumatizing survivors. What steps does USCIS take to ensure that this adjudication or discussion of the extreme cruelty remains in the sole purview of

the humanitarian units? What training does USCIS provide to officers handling VAWA-based adjustments to address the sensitivities in working with victims of abuse?

A38. All immigration services officers receive training in victim-based benefits and confidentiality requirements. Adjudicators also receive additional, recurrent training regarding noncitizen victims of crime, including abuse. Individual directorates provide supplementary training based on specific position requirements.