Chapter 2 - Eligibility Requirements

Guidance

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A. Overview of Eligibility Requirements

To establish eligibility for T nonimmigrant status,[1] principal applicants must demonstrate that they:

- Have been a victim of a severe form of trafficking in persons;
- Are physically present in the United States,[2] American Samoa, or at a port of entry to the United States or American Samoa[3] on account of such trafficking;
- Have complied with any reasonable request for assistance in a federal, state, tribal, or local detection, investigation, or prosecution into acts of trafficking or the investigation of a crime where acts of trafficking are at least one central reason for the commission of that crime,[4] unless the applicant was under 18 years of age at the time at least one of the acts of trafficking occurred, or is unable to cooperate with a reasonable request due to physical or psychological trauma;[5]
- Would suffer extreme hardship involving unusual and severe harm upon removal from the United States;[6] and
- Are admissible to the United States or qualify for a waiver of any applicable grounds of inadmissibility.[7]

B. Victim of Severe Form of Trafficking in Persons

1. General Definition

The term "severe form of trafficking in persons" is defined by the Trafficking and Victims Protection Act (TVPA)[8] and USCIS regulations.[9] The definition includes both sex trafficking and labor trafficking. Applicants must demonstrate that the trafficker engaged in a prohibited action by means of force,

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particular purpose.[10] The table below breaks down the definition of a severe form of trafficking in persons into its three elements: action, purpose and means.

Severe Form of Trafficking in Persons Definition

Type of Trafficking	Action	Purpose	Means
Sex Trafficking	• Recruiting • Harboring • Transporting • Provision • Soliciting • Patronizing • Obtaining (Of a person)	For the purpose of a commercial sex act	Where the commercial sex act is induced by force, fraud, or coercion (Not required when the victim is under 18 years of age)
Labor Trafficking	• Recruiting • Harboring • Transporting • Provision • Obtaining (Of a person)	For the purpose of subjecting the victim to: • Involuntary servitude • Peonage • Debt bondage • Slavery	Through use of force, fraud, or coercion

2. Definition of Harboring

While the term harboring is most commonly understood to mean actively hiding or concealing a fugitive, harboring within the trafficking context refers to the series of actions a trafficker takes to exert and maintain control over a victim by substantially limiting or restricting a victim's movement or agency.

The term agency refers to the ability to act according to one's own free will, control over one's emotional and physical states of being, and ability to exert (or attempt to exert) influence over oneself.[11] A victim's ability to eventually escape the trafficking does not necessarily invalidate the lack of agency the victim experienced throughout the victimization. Some factors officers may evaluate to determine whether harboring occurred include, but are not limited to:

- Isolation of the victim;
- Limitations on the victim's ability to interact with others;

- Restrictions on the victim's movement; and
- Consequences of acting outside of the trafficker's orders or without the trafficker's explicit permission.

Harboring does not require a preexisting relationship between the victim and the trafficker. However, harboring may occur within a variety of consensual relationships, including employer-employee, parent-child, smuggler-smugglee, landlord-tenant, and marriages and other intimate partner relationships.

Harboring may occur for any period of time, even a brief period, but generally must endure long enough to substantially limit or restrict the victim's movement or agency.

3. Definition of Coercion

The regulations define coercion as:

- Threats of serious harm to or physical restraint against any person;
- Any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or
- Abuse or threatened abuse of the legal process.[12]

Threats of Serious Harm

Serious harm includes any harm, whether physical or nonphysical, including psychological, financial, or reputational harm, that is sufficiently serious when considering the surrounding circumstances to compel a reasonable person of the same background and in the same circumstances to perform or to continue performing labor or services[13] in order to avoid experiencing that harm.[14] Serious harm may include various types of harm, including, but not limited to:

- Harm to third parties close to the victim, such as family members or children in the care of the victim;
- Banishment or expulsion from the home of the victim or family members;
- Starvation or restriction of food;
- Bankruptcy of the victim or family members;
- Refusing to send money to the victim's family;
- Withholding pay or other compensation resulting in an inability to pay off debt or obtain necessary medical care or nutrition;
- Subjecting victims to isolation, denial of sleep, or other punishments;
- Threats of deportation or removal from the United States;
- Threats to report the victim to law enforcement or immigration authorities; and
- Reputational harm, such as threats to falsely accuse the victim of being a thief or threats to disclose engagement in commercial sex, if the victim attempts to leave.

One type of harm alone may constitute serious harm; however, whether the harm asserted constitutes "serious harm" depends on the facts of the case. In cases involving multiple types of harm, each type of harm may separately meet the definition of serious harm, or when considered together may constitute serious harm.

In determining whether the trafficker made a threat of serious harm that could reasonably be believed by the victim, USCIS considers any vulnerabilities of the victim, including but not limited to the victim's particular socioeconomic situation, physical and mental condition, age, education, cultural background, training, experience, or intelligence.[15]

Officers should determine whether a reasonable person in the same circumstances as the victim would believe that the victim would suffer serious harm if the victim did not provide labor or services. Appendix: Case Law References for T Visa Adjudications [3 USCIS-PM B, Appendices Tab] lists decisions that may provide additional clarification on the concepts of threats of harm and serious harm.

Use or Threats of Use of Physical Restraint

The use or threat of use of physical restraint or physical injury, including the use of violence or threats of violence, can constitute coercion.[16] Examples of physical coercion include:

- An actual or threatened physical act that could result in harm;
- The use or threatened use of any object or weapon to intimidate or injure; and
- The use of threats through words or actions to instill in the victim a fear that others would kill, injure, or use force against the victim or any other person.

There is no requirement that the victim be physically restrained and prevented from escaping in order for USCIS to find that physical coercion occurred. In addition, sexual abuse could constitute physical coercion.

Analyzing Whether Actions Constitute Threats

In the coercion analysis, officers may need to determine whether a trafficker's actions constitute a threat.

A threat is a serious expression of an intention to inflict harm, immediately or in the future, as distinguished from idle or careless talk, exaggeration, or something said in a joking manner. For an expression to be a threat, the expression must have been made under such circumstances that a reasonable person (in the victim's circumstances) who heard, read, saw, or otherwise experienced the action would perceive it to be a serious expression of an intent to cause harm. In addition, the trafficker must have made the expression intending it to be a threat, or with the knowledge that the statement would be viewed as a threat.[17]

USCIS views threats from the viewpoint of the victim, considering the victim's individual circumstances and the totality of the circumstances surrounding the trafficker's threats.

Scheme, Pattern, or Plan

Instead of direct threats or use of overt violence, traffickers may employ a scheme, plan, or pattern, "intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint."[18]

In determining whether there is such a scheme, pattern, or plan, officers should consider the totality of the trafficker's actions and any evidence of the trafficker's intent in carrying them out. Officers may consider actions taken before the victim's arrival in the United States or before the start of the performance of labor or services that are relevant to establishing a scheme, pattern, or plan.

Indicators of a scheme, pattern, or plan could include a range of actions by traffickers, some of which may overlap with the types of serious harm discussed above. The following non-exhaustive list includes factors

that may contribute to a finding of coercion by way of a scheme, pattern, or plan:

- Limiting access to public benefits and services;
- Confiscation of identification, travel, or other personal documents;
- Creating a climate of social or linguistic isolation;
- Subjecting the victim to verbal abuse, physical abuse, or harsh living or working conditions;
- Creating a belief that the perpetrator could be physically violent through demonstrations of physical violence against workers or others;
- Inducing workers to take on high debt;
- Fraudulent promises about work or housing conditions;
- Subjecting the victim to economic detriment through tactics including, but not limited to:
  - Underpaying or not paying what was promised to the employee;
  - Not supplying promised work hours; or
  - Deducting expenses from pay that are unreasonable or not as contracted;
- Creating a belief that the employer has the power to deport, arrest, or blacklist[19] a victim through actions such as, but not limited to:
  - Discussing the employer's relationship with law enforcement;
  - Threatening to call law enforcement or other authorities (for example, the sheriff, police, immigration authorities or Federal Bureau of Investigation) if the employee complains about conditions or leaves the job;
  - Threatening to ensure the employee is never able to work in the United States again;
  - Filing a criminal complaint if the employee complains about working conditions or requests unpaid wages;
  - Threatening to report the employee as an absconder; or
  - Creating a belief that the employer has powerful connections to those who can impose harm on the victim or victim's family members, such as connections to political leaders, local law enforcement, or organized crime, in the United States or the victim's home country.

Abuse or Threatened Abuse of the Legal Process

Coercion could also include abuse or threatened abuse of the legal process, which means the use or threatened use of a law or legal process, whether administrative, civil, or criminal, in any manner or for any purpose for which the law was not designed, in order to exert pressure on another person to cause that person to take some action or refrain from taking some action.[20]

Appendix: Case Law References for T Visa Adjudications [3 USCIS-PM B, Appendices Tab] lists decisions that may provide additional clarification on the concept of threatened or actual abuse of the legal system. The following is a non-exhaustive list of the types of threats that could establish abuse or threatened abuse of the legal process:

- Threats of imprisonment, prosecution, or imposition of criminal sanctions for failure to perform labor or services;

- Threats to institutionalize someone in a mental health facility;
- Threats to have immigration authorities arrest or deport workers, particularly for failing to comply with the trafficker's directives or to perpetuate workers' ongoing labor by exploiting their fears; or
- Threats to call immigration authorities, to report a worker for absconding, or to let a person's visa expire.

Legal coercion may occur even when the threatened outcome is not an actual legal possibility. In determining the purpose behind the threats, USCIS examines any threat of legal consequences in light of all of the surrounding circumstances and considers whether the threat is being used for an end different from that envisioned by the law or for a coercive purpose designed to intimidate.

4. Labor Trafficking Concepts

Involuntary Servitude

Involuntary servitude is defined as a condition of servitude induced by:

- Means of any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or
- Abuse or threatened abuse of legal process.[21]

Involuntary servitude may occur where a victim initially voluntarily agrees to perform a service but is later forced or coerced into performing the same service. Involuntary servitude also occurs when the victim is forced to work for the perpetrator by the use or threat of physical restraint or physical injury, or by the use or threat of coercion through the law or the legal process. This definition includes those cases in which the perpetrator holds the victim in servitude by placing the victim in fear of such physical restraint or injury or legal coercion.[22] Coercion may also be established if the perpetrator uses psychological abuse.

Involuntary servitude may occur in circumstances where the victim has a preexisting relationship or arrangement with the trafficker. For example, involuntary servitude may occur in the context of a domestic relationship (including parent-child, intimate partner, or roommate relationships). Involuntary servitude can include, but is not limited to, domestic servitude and sexual exploitation. Whether the conditions occurred in a domestic context or outside of the home is not in and of itself determinative of whether involuntary servitude has occurred.

Conditions of servitude are defined by compulsory service or labor against a victim's will in a manner that deprives the victim of liberty. Such conditions do not include scenarios in which:

- The victim is free to quit or leave without incurring retribution or harm (or without fear of retribution or harm);[23]
- The victim can exercise significant control over their working conditions;[24] or
- The victim continued working to avoid the ordinary financial, personal, or professional consequences of quitting or leaving.[25]

Conditions of Servitude Induced by Domestic Violence

Trafficking can occur alongside intimate partner abuse, and involuntary servitude and domestic violence may coexist in some situations. In determining whether abuse or threats of abuse (including physical violence, mental abuse, emotional abuse, sexual violence, intimidation, and controlling behavior in the home) create a condition of involuntary servitude that constitutes a severe form of trafficking in persons, officers should evaluate whether the situation involves:

- Compelled or coerced labor or services; or
- Forced sexual activity.

Although domestic violence and trafficking often intersect, not all work that occurs as the result of domestic violence constitutes a condition of servitude. For example, in certain contexts, the unequal assignment of household tasks among household members may signal an abusive relationship, but it does not automatically constitute the creation of a condition of servitude.

Forced labor[26] compelled by domestic violence occurs where the aim of the domestic violence is to force the victim to engage in labor that creates a condition of servitude. To distinguish between domestic violence and labor trafficking resulting from domestic violence, applicants must demonstrate that the perpetrator's motivation or purpose is or was to subject the applicant to a condition of servitude.

Officers may evaluate the actions the trafficker has taken to maintain the applicant in a condition of servitude, including recruitment, harboring, transportation, provision, obtaining, patronization, or solicitation, to further understand the goal of the perpetrator. Where trafficking is accompanied and enforced by abuse, victims may act upon the trafficker's demands for labor and services due to fear or coercion and may feel that they do not have their own liberty or self-determination.

The following non-exhaustive list outlines circumstances where the trafficker may control the victim's liberty to create a condition of servitude:

- An expectation that the victim's life fulfills the orders of the trafficker (such as a demand from the trafficker to perform domestic labor at an unreasonable level, including unreasonable working hours or constant availability to perform labor regardless of health or energy);
- Lack of control over the victim's own wages despite laboring under the trafficker's demands; or
- The imposition of unequal living arrangements as part of the campaign of force, fraud, and coercion (for example, unequal sleeping arrangements, living arrangements, or access to nourishment).

Conditions of Servitude Induced During a Voluntary Smuggling Arrangement

Aliens may experience violence over the course of their smuggling. While not all crimes or exploitation that occur during a smuggling arrangement rise to the level of trafficking, smuggling may develop into trafficking. The existence of a voluntary smuggling arrangement does not invalidate the possibility of involuntary servitude arising within the smuggling.

Peonage

Peonage is a status or condition of involuntary servitude based upon real or alleged indebtedness.[27] In other words, the perpetrator compels the victim into involuntary servitude in order to satisfy a real or artificially-created debt.

When a debtor voluntarily enters into a contract to pay off a debt, that debtor, like any other contractor, can choose at any time to break the contract. It does not matter that a debtor entered into a contract agreeing to

perform services or labor for the creditor. There is a clear distinction between peonage and voluntarily agreeing to perform labor or provide services in payment of a debt.

In determining whether an applicant has been a victim of peonage, officers should follow the guidance above related to involuntary servitude, with the added element that the victim was held in involuntary servitude in order to satisfy a real or artificially-created debt. If the facts support a finding that the applicant was a victim of peonage, USCIS officers should also consider the applicant a victim of involuntary servitude.

Debt Bondage

"Debt bondage" is the status or condition of a debtor arising from a pledge by the debtor of the personal services of the debtor or those of a person under the debtor's control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not limited and defined.[28] Appendix: Case Law References for T Visa Adjudications [3 USCIS-PM B, Appendices Tab] lists decisions that may provide additional clarification on the concept of debt bondage.

Slavery

The term slavery is not defined in the TVPA or regulations, but is generally understood to mean the state of being held under the complete and total ownership or control of another person or entity and being deprived of liberty, autonomy, and independence for the purpose of subjecting the victim to forced labor or services.

5. Definition of Sex Trafficking

Sex trafficking is the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.[29] A commercial sex act is any sex act on account of which anything of value is given to or received by any person.[30] For sex trafficking to constitute a severe form of trafficking in persons, the commercial sex act must generally have been induced by force, fraud, or coercion.[31] However, a minor under the age of 18 who engages in a commercial sex act meets the definition of a victim of a severe form of trafficking in persons without having to show force, fraud, or coercion. This is because minors under the age of 18 cannot consent to sexual acts.

6. Key Principles of Trafficking in Persons

Actual Labor or Services Need Not Have Been Performed

In determining whether an applicant has been a victim of a severe form of trafficking, it is not necessary for the victim to actually perform the labor or commercial sex act(s) to be eligible for T nonimmigrant status. For example, a victim may be recruited through force, fraud, or coercion for the purpose of performing labor or services but be rescued or have escaped before performing any labor or services.

Appendix: Case Law References for T Visa Adjudications [3 USCIS-PM B, Appendices Tab] lists decisions that may provide additional clarification on the concepts of labor and services. The statutory definitions of trafficking include acts committed "for the purpose of" subjecting someone to a form of trafficking. Therefore, the statute does not require the victim to actually perform the labor or services.

Compensation is Not Determinative

A worker who is paid some or all the promised wages may still be a victim of trafficking. The fact that an applicant was paid a salary or wage for work is not determinative of whether the applicant was subjected to one of the federal trafficking crimes.

Appendix: Case Law References for T Visa Adjudications [3 USCIS-PM B, Appendices Tab] lists decisions that may provide additional clarification on the concept of compensation.

Labor or Services Might Include Non-Traditional Types of Work

When analyzing whether a person has been subjected to involuntary servitude or peonage, USCIS considers that the labor or services might include non-traditional types of work. Appendix: Case Law References for T Visa Adjudications [3 USCIS-PM B, Appendices Tab] lists decisions that may provide additional clarification on the concepts of non-traditional work. Compelled labor or services provided in the context of a familial or intimate partner relationship may satisfy the definition.

For example, in certain contexts, domestic labor may constitute forced labor and satisfy the involuntary servitude assessment, when the actions are induced by force, fraud, or coercion and where the perpetrator had a goal of securing the forced labor or services for the purpose of subjecting the victim to a condition of servitude.

In addition, other non-traditional types of work, including situations where a victim is forced or coerced to engage in criminal behavior (such as drug trafficking or theft), may also constitute forced labor or services when the actions are induced by force, fraud, or coercion, and where the perpetrator had a goal of securing the forced labor or services for the purpose of subjecting the victim to a condition of servitude.[32] USCIS evaluates such situations on a case-by-case basis, considering all relevant circumstances. USCIS retains the authority to request relevant criminal records, including arrest or police reports, trial transcripts, criminal complaints and indictments, and conviction records.

No Defined Length of Time Required

To establish that they are or have been a victim of trafficking and have been compelled to perform the labor or services, applicants do not need to show that they were victimized for a defined length of time. For example, in the context of involuntary servitude, the duration of time can be of varying length and may be short in duration.[33]

However, the totality of the circumstances must establish that the nature of the work was intended to create a condition of servitude. Appendix: Case Law References for T Visa Adjudications [3 USCIS-PM B, Appendices Tab] lists decisions that may provide additional clarification on the concept of timeframes.

The labor or services at issue also do not have to be coerced in every instance. There could be time periods in which the labor or services were voluntary and time periods in which they were involuntary. However, the labor or services must have been involuntary for at least some portion of the time that the applicant was performing the work to constitute labor trafficking.

There is no requirement regarding the length of time the labor or services are performed or the means used to induce the acts. Nevertheless, the applicant must establish that the trafficker acted for the purpose of subjecting the victim to involuntary servitude, peonage, debt bondage, slavery, or a commercial sex act. The duration of the labor or services may be relevant in assessing the trafficker's purpose or motivation.

Trafficker Engaged in Prohibited Action for a Particular Purpose

An applicant must provide facts and evidence establishing the perpetrator's intent or purpose to demonstrate that trafficking has occurred. To establish that they are a victim of a severe form of trafficking in persons, an applicant must demonstrate that the perpetrator engaged in a specific prohibited action through the use of force, fraud, or coercion for the purpose of inducing a commercial sex act or subjecting the applicant to involuntary servitude, peonage, debt bondage, or slavery.

7. Difference Between Trafficking and Smuggling

Federal law distinguishes between the crimes of human smuggling and human trafficking.[34] Trafficking is a crime committed against a person regardless of the person's immigration status or the crossing of a transnational border, while smuggling is a crime committed against a country's immigration laws and involves the willful movement of a person across a country's border.

A person may voluntarily consent to be smuggled. In contrast, an act of trafficking must involve both a particular means, such as the use of force, fraud, or coercion, and a particular purpose, such as subjection to involuntary servitude or a commercial sex act. Federal law prohibits forced labor regardless of the victim's initial consent to work.[35]

While human trafficking and smuggling are distinct, they are not mutually exclusive. Trafficking may occur in the context of some smuggling arrangements. For example, a person who initially agreed to be smuggled in exchange for money, services, or labor could become a victim of trafficking if, over the course of the smuggling, the smuggler subjects or intends to subject the person to acts beyond or distinct from those agreed upon that meet the definition of a severe form of trafficking.

A consensual smuggling agreement does not excuse any acts of trafficking that may arise during the course of smuggling. However, as with all cases, the applicant must establish the perpetrator's purpose. In cases involving smuggling, this may include establishing that the smuggler's motivation or purpose shifted over time to that of a trafficker and that the initial consent has been invalidated by the actions of the smuggler-turned-trafficker.

The perpetrator's purpose or motivations can be multifaceted. For example, a smuggler who intends to extort a person for financial payments during a smuggling arrangement may also have a dual or shifting purpose to compel forced labor or services that place the person into a condition of servitude, even where the forced labor or services end upon completion of the smuggling arrangement.

Short periods of victimization may qualify as a condition of servitude depending on the victim's credible statements. Conversely, a person may be forced to perform certain labor within a smuggling arrangement outside of a condition of servitude that does not rise to trafficking, such as facilitating the smuggling operation or avoiding detection at the border. USCIS makes an individualized determination of whether trafficking has been established based on the evidence in each particular case.

Even if an applicant establishes that trafficking arose over the course of their smuggling arrangement, the applicant must nevertheless establish that they are physically present in the United States or a U.S. port of entry on account of their trafficking.

C. Physical Presence on Account of Trafficking

Principal applicants for T nonimmigrant status must demonstrate at the time of application that they are physically present in the United States, American Samoa, the Commonwealth of the Northern Mariana

Islands,[36] or at a U.S. port of entry, on account of trafficking.[37]

Some traffickers arrange for entry of their victims into these jurisdictions as part of the trafficking scheme, while other traffickers prey upon aliens who are already in the United States. Aliens already in the United States may have entered lawfully or they may have entered without being admitted or paroled and are unlawfully present. USCIS takes into account any relevant circumstances relating to the applicant's arrival and current presence in these jurisdictions.[38]

1. Establishing Physical Presence Requirement

Applicants are able to establish physical presence on account of trafficking if they:

- Are present because they are currently being subjected to a severe form of trafficking in persons;
- Were liberated from a severe form of trafficking in persons by a law enforcement agency (LEA);
- Escaped a severe form of trafficking in persons before an LEA was involved;
- Were subjected to a severe form of trafficking in persons at some point in the past and their continuing presence in the United States is directly related to the original trafficking in persons; or
- Are present on account of having been allowed entry into the United States for participation in investigative or judicial processes associated with an act or perpetrator of trafficking.[39]

Applicants must demonstrate physical presence at the time of the application, but the phrase "at the time of application" does not impose a limitation on the specific amount of time between the original trafficking and the filing of the application. The victim may file the application at any time.

There is no requirement that the victim be in an ongoing trafficking situation, be in continuous contact with the trafficker, interact with the trafficker, or be under the control of the trafficker to qualify under this standard, although these factors may be relevant in determining whether an applicant has established physical presence on account of trafficking.

Trafficking survivors experience significant consequences of their victimization that may delay filing, including trauma, lack of access to legal representation, lack of support, and even lack of knowledge that they are a victim of trafficking. The passage of time alone does not prevent an applicant from establishing physical presence on account of their trafficking; however, an applicant still bears the burden of establishing that their current presence in the United States is on account of trafficking.

Establishing Liberation by Law Enforcement[40]

To establish physical presence under this provision, applicants must demonstrate that law enforcement assisted in liberating them from the trafficking situation. The applicant can satisfy physical presence under this provision regardless of the timeline between the liberation from original trafficking and the filing of the T visa application.[41] To establish that an applicant was liberated by law enforcement, the applicant must show that an LEA was involved in freeing the applicant from the trafficking situation and was aware of the applicant's victimization.

Establishing Law Enforcement Agency Involvement[42]

To establish physical presence under this provision, the applicant must demonstrate that the LEA became actively involved in detecting, investigating, or prosecuting the acts of trafficking.[43] LEA involvement

requires law enforcement action beyond receiving the applicant's tip, and can be satisfied by demonstrating that the LEA interviewed the applicant or otherwise became involved in detecting, investigating, or prosecuting the trafficking after the applicant escaped.

The applicant can satisfy physical presence under this provision regardless of the time that has passed between the LEA's involvement and the filing of the T visa application.[44]

Establishing the Direct Relationship between the Applicant's Ongoing Presence and the Original Trafficking in Persons[45]

To establish eligibility under this provision, applicants must establish that their current presence in the United States is directly related to the original trafficking in persons, regardless of the length of time that has passed between the trafficking and filing of their application.[46] USCIS may find that an applicant's current presence is not directly related to the original trafficking if the applicant:

- Has repeatedly traveled outside the United States since the trafficking, and the departures from the United States are not the result of continued victimization;
- Lacks sufficient evidence that their continued ties to the United States are directly related to their trafficking; or
- Has established an intent to abandon their life in the United States.

Developments in an applicant's life following the trafficking, including professional and personal milestones (such as finding new employment, having children, getting married, managing mental health diagnoses) do not necessarily prevent an applicant from establishing ongoing presence on account of trafficking. Despite reaching certain milestones, an applicant can still demonstrate that their continuing presence in the United States is directly related to the initial victimization. The applicant may accomplish this by explaining the impact of the trauma the applicant continues to experience as a result of the trafficking.

When evaluating whether an applicant's continuing presence in the United States is directly related to the original trafficking in persons, USCIS considers all evidence using a victim-centered approach.[47] Officers should look for a sufficiently detailed description of the specific impacts of trafficking on the applicant's life at the time of application. The applicant may not establish eligibility if the evidence of the ongoing impact of trauma on the applicant's life does not sufficiently establish the connection between the trafficking and the applicant's presence in the United States at the time of filing.

Factors officers may consider include, but are not limited to:

- Ongoing psychological or physical trauma (or both) the applicant suffers as a result of victimization;
- Health diagnoses stemming from the victimization;
- Ability to access legal, mental health, social, or other services as a tool for rehabilitation in the United States or in the home country, and whether the applicant is currently or has recently accessed trafficking-related services and benefits;
- Current efforts the applicant is undertaking to rehabilitate and stabilize, including self-identification as a victim or survivor;
- The level of control or fear the trafficker still exerts over the victim (including continued fear of law enforcement and immigration authorities and fear of retaliation from the trafficker in the victim's home country);

- Past threats from, actions by, or interactions with the trafficker and any ongoing impact on the applicant's daily life;
- Current cooperation with law enforcement;
- Financial impacts of the applicant's victimization; and
- Any other activities the applicant has undertaken to deal with the consequences of having been trafficked.

Establishing Presence for Participation in an Investigative or Judicial Process[48]

The applicant meets the physical presence requirement[49] when the trafficking occurred in the United States or abroad and meets the federal definition of "a severe form of trafficking in persons" and the victim is allowed entry into the United States to participate in the detection, investigation, prosecution, or judicial process associated with an act or a perpetrator of trafficking.

Trafficking that Began Abroad and Continues to the Port of Entry or Into the United States

An applicant may be able to establish physical presence as someone who is present because they are "currently being subjected to a severe form of trafficking in persons" if the acts of trafficking:

- Began abroad and caused the victim's entry into the United States or presence at the U.S. port of entry;
- Were discovered at the port of entry or continued after the applicant entered; and
- Are ongoing.[50]

Establishing Physical Presence When the Trafficking Ended Outside the United States

Applicants may be able to establish that they are physically present in the United States on account of trafficking[51] even when the trafficking occurred and ended abroad. Applicants must demonstrate that they are now in the United States or at a port of entry on account of their trafficking.

2. Departures From the United States

An applicant who has voluntarily departed (or has been removed) from the United States at any time after the act of a severe form of trafficking in persons is not considered to be physically present in the United States on account of such trafficking, except under the following circumstances:

- The applicant's reentry was the result of the continued victimization;
- The applicant is a victim of a new incident of a severe form of trafficking in persons;
- The applicant has been allowed reentry to the United States for participation in the detection, investigation, prosecution, or judicial processes associated with an act or a perpetrator of trafficking, regardless of where such trafficking occurred;
- The applicant's 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; or
- The applicant returned to the United States and received treatment or services related to their victimization that cannot be provided in their home country or last place of residence outside the United States.[52]

The key factors USCIS considers are the reason(s) for the applicant's departure and the circumstances surrounding the applicant's return to the United States.

USCIS cannot approve the application for T nonimmigrant status until the applicant returns to the United States.[53]

Reentry Due to Continued Victimization

To overcome the presumption that the applicant is no longer physically present on account of trafficking following a departure and sufficiently establish that the applicant's reentry is due to continued victimization,[54] the applicant must demonstrate that the reentry stemmed from a continuation of a prior trafficking scheme or show a clear connection between the applicant's continued victimization by the trafficker and the reentry.[55]

Continued victimization does not require that an applicant is currently a victim of trafficking; rather, it can include ongoing victimization that directly results from past trafficking. If an applicant experienced harm such as abduction, abuse, threats, or other trauma during their trafficking that resulted in continuing physical or psychological harm, that applicant's reentry could be a result of their continued victimization, even though they were not trafficked upon reentry.

For example, if an applicant left the United States and their trafficker threatened to harm them and their family, such that they had to flee to the United States, they may be able to satisfy the physical presence requirement if they establish that their reentry into the United States was the result of continued victimization tied to ongoing or past trafficking.

Factors that officers may consider when evaluating whether the applicant's reentry resulted from continuing victimization include, but are not limited to:

- The extent of the applicant's continued fear of and connection to the trafficker;
- The threats and risk of harm the trafficker poses to the applicant and the applicant's family; and
- The nature and severity of the victimization arising out of the impacts of trafficking on the applicant's life at the time of reentry.

Allowed Reentry for Participation in Investigative or Judicial Processes

Applicants who departed the United States after their trafficking and subsequently reentered may satisfy the physical presence requirement if they demonstrate that they were allowed reentry[56] for participation in investigative or judicial processes[57] associated with an act or perpetrator of trafficking.[58]

Where the applicant was allowed reentry into the United States for participation in investigative or judicial processes[59] associated with an act or perpetrator of trafficking, the applicant must have entered by lawful means, and it does not matter where the trafficking occurred.[60] In this scenario, the applicant is considered to be physically present on account of trafficking, regardless of where such trafficking occurred.[61] To satisfy this ground, the applicant's entry must be lawful and directly connected to the applicant's participation in an investigation or judicial process related to the trafficking.[62]

Establishing Presence on Account of Past or Current Participation in Investigative or Judicial Processes

Applicants who departed the United States after their trafficking and subsequently reentered may still satisfy the physical presence requirement, even if they were not specifically allowed reentry for that purpose.[63] This

may include situations where an applicant returned to the United States to pursue civil, administrative, or criminal remedies related to their trafficking.[64]

Where the applicant reentered the United States (by any means) and their physical presence is on account of their past or current participation in investigative or judicial processes, they are considered physically present on account of trafficking, regardless of where such trafficking occurred. To satisfy this ground, the applicant's presence must be directly connected to the applicant's participation in an investigation or judicial process related to the trafficking.

Establishing Presence Based on Receipt of Treatment or Services Related to Victimization

Where the applicant reentered the United States (by any means) and their physical presence is related to their receipt of treatment or services related to their victimization that cannot be provided in their home country or last place of residence outside the United States, they are considered physically present on account of their trafficking.[65] To satisfy this ground, the applicant must provide evidence of the treatment or services they received in the United States, as well as evidence that such treatment or services is not available in their home country or last place of residence outside the United States.

D. Requests for Law Enforcement Assistance

1. General Rule

An applicant for T nonimmigrant status is required to comply with any reasonable request for assistance in a federal, state, or local investigation or prosecution of acts of trafficking in persons or the investigation of a crime where an act of trafficking in persons is at least one central reason for the commission of that crime.[66] If an officer determines that a request was reasonable and no exceptions or exemptions apply, the officer then examines whether an applicant complied with the request.

An LEA includes any federal, state, tribal, or local LEA, prosecutor, judge, labor agency, children's protective services agency, adult protective services agency, or other authority that has the responsibility and authority for the detection, investigation, or prosecution of severe forms of trafficking in persons.[67] Federal LEAs include, but are not limited to the following:

- U.S. Department of Justice agencies, including U.S. Marshals Service, Offices of the United States Attorneys, and Civil Rights and Criminal Divisions;
- U.S. Department of Homeland Security agencies, including U.S. Immigration and Customs Enforcement and Customs and Border Protection;
- U.S. Department of State agencies, including Diplomatic Security Service;
- U.S. Department of Labor agencies;
- Other independent labor agencies, such as the Equal Employment Opportunity Commission and National Labor Relations Board;
- Offices of inspectors general;
- Offices for civil rights and civil liberties; and
- Bureau of Indian Affairs Police.

2. Totality of the Circumstances Test

The reasonableness of an LEA request for assistance depends on the totality of the circumstances. USCIS considers the following non-exhaustive set of factors:

- General law enforcement and prosecutorial practices;
- The nature of the victimization;
- The specific circumstances of the victim;
- The victim's capacity, competency, or lack thereof;
- Trauma suffered (both mental and physical) and whether the request would cause further trauma;
- Access to support services;
- The safety of the victim or the victim's family;
- Compliance with previous requests and the extent of such compliance;
- Whether the request would yield essential information;
- Whether the information could be obtained without the victim's compliance;
- Whether a qualified interpreter or attorney was present to ensure the victim understood the request;
- Cultural, religious, or moral objections to the request;
- The time the victim had to comply with the request;
- The age, health, and maturity of the victim; and
- Any other relevant circumstances surrounding the request.[68]

3. Comparably-Situated Crime Victim Standard

In examining the totality of the circumstances, USCIS uses a comparably-situated crime victim standard,[69] which focuses on the protection of victims and provides more flexibility than other standards in order to strike the proper balance between the law enforcement need to investigate and prosecute and the need to ensure that victims are not overburdened, retraumatized, or put at unnecessary risk due to reporting their trafficking.

The focus is whether the request the LEA made of the trafficking victim was generally reasonable compared to similarly-situated crime victims, not whether a victim's refusal was unreasonable.[70]

4. Contact with Law Enforcement

Applicants must, at a minimum, have had contact with an LEA with jurisdiction[71] over the crime regarding their victimization, unless they qualify for an age-based exemption or a trauma-based exception.[72] It is sufficient for applicants to provide credible evidence to document that they have reported the victimization, including any crime where the acts of trafficking constitute at least one central reason for the commission of that crime, to law enforcement having jurisdiction over the conduct at issue.

Applicants may establish that they have cooperated with reasonable requests for assistance by submitting a Declaration for Trafficking Victim (Form I-914, Supplement B).

Applicants may also be able to satisfy the requirement to comply with reasonable requests for assistance by reporting their victimization to law enforcement by email, letter, or other reporting mechanisms and complying with reasonable requests for assistance (including, if requested, rerouting the report through the proper channels or to the proper authority with jurisdiction).

If the law enforcement agency that received the report reasonably requests that the applicant instead contact a different law enforcement agency for investigation or development of the information, non-compliance with that reasonable law enforcement request for assistance may render the applicant ineligible for T nonimmigrant status.

Alternatively, applicants may demonstrate that they qualify for an exemption due to age or exception due to trauma.

Form I-914, Supplement B provides valuable evidence of the victim's cooperation with reasonable requests for assistance but is not a required form of evidence to establish eligibility for T nonimmigrant status. Completing Form I-914, Supplement B is a discretionary LEA decision. Although USCIS does not require applicants to submit the Form I-914, Supplement B, officers may request one depending on the circumstances.

For example, if an applicant mentions significant cooperation with an LEA in their personal affidavit but does not provide sufficient detail regarding this cooperation for USCIS to determine eligibility, USCIS may request additional evidence detailing the cooperation, including, but not limited to, Form I-914, Supplement B.

Reporting to an LEA without any authority to detect, investigate, or prosecute the underlying trafficking generally does not satisfy the reporting requirement.

However, if an applicant submits credible evidence of reporting to an LEA outside of the physical jurisdiction where the trafficking occurred, this would satisfy the reporting requirement as long as the record establishes that the LEA had jurisdiction to detect, investigate, or prosecute the trafficking crime, or the LEA connected the applicant with the agency with jurisdiction and contact between the applicant and the agency with jurisdiction has occurred.[73]

An applicant who has never had contact with an LEA regarding the victimization associated with the acts of a severe form of trafficking in persons is not eligible for T nonimmigrant status unless the applicant qualifies for the age-based exemption or trauma-based exception.[74]

5. Age-Based Exemption and Trauma-Based Exception

An applicant is exempt from the requirement to comply with reasonable law enforcement requests if the applicant was under 18 years of age at the time at least one of the acts of trafficking occurred.[75]

An applicant may qualify for an exception if the applicant can establish that the applicant's lack of contact with an LEA or compliance with a reasonable request for assistance is due to physical or psychological trauma.[76]

6. The Relationship Between Assistance with Law Enforcement and Victimization

To establish eligibility for T nonimmigrant status, applicants must demonstrate that the acts of trafficking that they reported to law enforcement are also the acts of trafficking that they experienced directly. Witnessing

trafficking alone is not sufficient to satisfy this requirement.

There are many complex factors that inform law enforcement's decision to pursue a case, including the high evidentiary standards for pursuing criminal matters, the difficulty locating the perpetrator, and the expiration of the statute of limitations. The decision to pursue an investigation or prosecution falls solely within the discretion of law enforcement. There is no requirement that law enforcement initiate or complete an investigation or prosecution to satisfy the law enforcement cooperation requirement.

Applicants can satisfy the reasonable request for assistance requirement if they participate in an investigation or prosecution against their trafficker even if the applicant is not directly named in the case. The applicant does not need to demonstrate that the acts of trafficking they suffered are directly referenced in any investigation or prosecution that law enforcement pursues. Therefore, where a case evolves into a formal judicial proceeding as a result of the applicant's cooperation, the applicant does not need to demonstrate any direct reference to their victimization.

E. Extreme Hardship

1. General Rule

An applicant must demonstrate that removal from the United States would subject the applicant to extreme hardship involving unusual and severe harm.[77] Generally, a finding of extreme hardship involving unusual and severe harm may not be based solely upon current or future economic detriment, or the lack of, or disruption to, social or economic opportunities.[78] Officers must consider the totality of the circumstances and all relevant factors in analyzing extreme hardship.

2. Factors

Factors that officers consider in evaluating whether removal would result in extreme hardship involving unusual and severe harm include both traditional extreme hardship factors and factors associated with having been a victim of a severe form of trafficking in persons.[79]

Traditional extreme hardship factors include, but are not limited to, the following:

- The age of the applicant, both at the time of entry and at the time of the application;
- Family ties in the United States and in the country to which the applicant would be returned, if any;
- Length of residence in the United States;
- The health of the applicant and the availability and quality of any required medical treatment in the country of relocation, including length and cost of treatment;
- The political and economic conditions in the country to which the applicant would be returned;
- The possibility of other means of adjusting status in the United States;
- The applicant's community ties in the United States; and
- The applicant's immigration history.[80]

Extreme hardship factors associated with having been a victim of a severe form of trafficking in persons include, but are not limited to:[81]

- The age, maturity, and personal circumstances of the applicant;[82]
- Any physical or psychological issues the applicant has that require medical or psychological care not reasonably available in the foreign country to which the applicant would be returned;[83]
- The nature and extent of the physical and psychological consequences of having been a victim of a severe form of trafficking in persons;[84]
- The impact of the loss of access to the U.S. courts and criminal justice system for purposes relating to the incident of a severe form of trafficking in persons or other crimes perpetrated against the applicant, including criminal and civil redress for acts of trafficking in persons, criminal prosecution, restitution, and protection;[85]
- The reasonable expectation that the existence of laws, social practices, or customs in the foreign country to which the applicant would be returned would penalize the applicant severely for having been the victim of a severe form of trafficking in persons;[86]
- The likelihood of re-victimization and the need, ability, and willingness of foreign authorities to protect the applicant;[87]
- The likelihood that the trafficker in persons or others acting on behalf of the trafficker in the foreign country would harm the applicant;[88]
- The likelihood that the existence of civil unrest or armed conflict would threaten the applicant's individual safety;[89] and
- The current or likelihood of future economic harm.[90]

In most instances, USCIS does not consider hardship to persons other than the applicant in determining whether an applicant would suffer extreme hardship involving unusual and severe harm.[91] However, USCIS considers the totality of the circumstances, and extreme hardship to an applicant's family member or someone close to the applicant may be a relevant factor, but only to the extent that the evidence specifically demonstrates that the applicant will suffer extreme hardship as a result of hardship to a person other than themselves. The outcome of the analysis depends on the facts and circumstances of each case.

F. Admissibility

Applicants for T nonimmigrant status and their derivative family members must establish that they are admissible[92] to the United States or must qualify for a waiver of any applicable grounds of inadmissibility.[93] To apply for a discretionary waiver of any grounds of inadmissibility, an applicant files an Application for Advance Permission to Enter as a Nonimmigrant (Form I-192).

G. Bar to T Nonimmigrant Status Eligibility

An applicant is barred from receiving T nonimmigrant status if there is substantial reason to believe that the applicant has committed an act of a severe form of trafficking in persons.[94]

H. Effect of Immigration Status on Application

Lawful permanent residents, conditional permanent residents, and U.S. citizens are not eligible for classification as a T nonimmigrant.[95] A person in another valid nonimmigrant status may apply for T nonimmigrant status. However, an alien may not hold more than one nonimmigrant status at a time.[96]

Footnotes

[^ 1] To apply for the T nonimmigrant status classification, the applicant must file an Application for T Nonimmigrant Status (Form I-914).

[^ 2] The United States includes the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands. See INA 101(a)(38). See 8 CFR 214.201.

[^ 3] Throughout this part, “U.S. port of entry” refers to any port of entry to the United States or American Samoa.

[^ 4] See 8 CFR 214.202(c).

[^ 5] See 8 CFR 214.202(c)(1) and 8 CFR 214.202(c)(2).

[^ 6] See 8 CFR 214.202(d).

[^ 7] See Volume 9, Waivers and Other Forms of Relief, Part O, Victims of Trafficking [9 USCIS-PM O].

[^ 8] See Pub. L. 106-386 (PDF), 114 Stat. 1464, 1470 (October 28, 2000), codified at 22 U.S.C. 7102(11).

[^ 9] See 8 CFR 214.201.

[^ 10] A victim of sex trafficking who was under 18 years of age at the time at least one of the acts of trafficking occurred does not need to demonstrate that the commercial sex act was induced by force, fraud, or coercion. See 8 CFR 214.201.

[^ 11] See American Psychological Association Dictionary of Psychology’s definition of "agency." See Merriam-Webster Dictionary’s definition of "agency."

[^ 12] See 8 CFR 214.201.

[^ 13] The term “labor or services” encompasses both labor trafficking and sex trafficking.

[^ 14] See 18 U.S.C. 1589. See H.R. Rep. 106-939 (PDF), p. 101 (Oct. 5, 2000). See 8 CFR 214.201.

[^ 15] See John S. Siffert, *Modern Federal Jury Instructions-Criminal* (Newark: Mathew Bender Elite Products, 2003), P 47A.02 at 5.

[^ 16] See 8 CFR 214.201.

[^ 17] See John S. Siffert, *Modern Federal Jury Instructions-Criminal* (Newark: Mathew Bender Elite Products, 2003), P 47A.02.

[^ 18] See 18 U.S.C. 1589.

[^ 19] See Merriam-Webster Dictionary's definition of "blacklist."

[^ 20] See 18 U.S.C. 1589(c)(1). See 8 CFR 214.201.

[^ 21] See 8 CFR 214.201.

[^ 22] See 8 CFR 214.201.

[^ 23] Retribution or harm in this context does not include the ordinary consequences of quitting or leaving a job.

[^ 24] Whether a victim can exercise significant control over their working conditions is assessed based on the totality of the circumstances. However, involuntary servitude is not established based solely on the fact that an employer, rather than an employee, sets the terms and conditions of employment (such as wages, hours, location, and duties or responsibilities).

[^ 25] The ordinary consequences of quitting or leaving may vary by individual. Examples of such consequences generally include, but are not limited to, having to look for a new job, loss of income if another job is not immediately available, being laid off, not receiving a promotion, impact on any existing immigration status, or receiving a negative reference.

[^ 26] The term forced labor is commonly used to refer to labor trafficking.

[^ 27] See 8 CFR 214.201.

[^ 28] See 8 CFR 214.201.

[^ 29] See 8 CFR 214.201.

[^ 30] See 8 CFR 214.201.

[^ 31] See 8 CFR 214.201 (defining "severe form of trafficking in persons").

[^ 32] In analyzing this non-traditional work, USCIS considers that trafficking victims may have criminal records and grounds of inadmissibility (such as drug possession charges due to being forced to use drugs, or prostitution charges) that are directly related to their victimization and their trafficker's efforts to subject them to labor or sex trafficking, or both.

[^ 33] 18 U.S.C. 1584 requires that involuntary servitude be for "any term," which suggests that the duration of time can be short.

[^ 34] See 8 U.S.C. 1324. See 22 U.S.C. 7102.

[^ 35] See 67 FR 4784, 4787 (PDF) (Jan. 31, 2002).

[^ 36] Before the federalization of Commonwealth of the Northern Mariana Islands (CNMI) immigration law on November 28, 2009, persons in the CNMI had to travel to Guam or elsewhere in the United States to be admitted as a T nonimmigrant. The 2009 legislation effectively replaced the CNMI's immigration laws with U.S. immigration laws. Applicants in CNMI can now apply for T nonimmigrant status without traveling to the United States or Guam. See Consolidated Natural Resources Act of 2008, Pub. L. 110–229 (PDF) (May 8, 2008).

[^ 37] See INA 101(a)(15)(T)(i)(II). See 8 CFR 214.207(a).

[^ 38] See 67 FR 4784, 4787 (PDF) (Jan. 31, 2002).

[^ 39] See INA 101(a)(15)(T)(i)(II). See 8 CFR 214.207(a). See 8 CFR 214.207(b)(4).

[^ 40] See 8 CFR 214.207(a)(2).

[^ 41] See 8 CFR 214.207(a)(2).

[^ 42] See 8 CFR 214.207(a)(3).

[^ 43] This means of establishing physical presence is distinct from the eligibility requirement to cooperate with any reasonable requests for assistance from law enforcement under INA 101(a)(15)(T)(i)(III) and 8 CFR 214.208. Applicants can generally satisfy the compliance with reasonable requests for assistance requirement by reporting their victimization to law enforcement by email, letter, or other reporting mechanisms and complying with reasonable requests for assistance or demonstrating that they qualify for an exemption due to age or exception due to trauma.

[^ 44] See 8 CFR 214.207(a)(3).

[^ 45] See 8 CFR 214.207(a)(4).

[^ 46] See 8 CFR 214.207(a)(4).

[^ 47] For additional explanation of the concept of a "victim-centered approach," see Chapter 7, Adjudication, Section A, Victim-Centered Approach [3 USCIS-PM B.7(A)].

[^ 48] See 8 CFR 214.207(a)(5).

[^ 49] See 8 CFR 214.207(a).

[^ 50] See 8 CFR 214.207(a)(1).

[^ 51] See 8 CFR 214.207(a)(5)(i).

[^ 52] See 8 CFR 214.207(b).

[^ 53] See 8 CFR 214.207(b).

[^ 54] See 8 CFR 214.207(b)(1).

[^ 55] See, for example, *In re 22022429* (PDF, 642.18 KB), Non-Precedent Decision (AAO Apr. 13, 2023) (finding that an applicant who departed and reentered the United States after being trafficked submitted sufficient evidence to establish that her reentry was due to her continued victimization); *In re 24626163* (PDF, 588.62 KB), Non-Precedent Decision (AAO Mar. 6, 2023) (finding that an applicant who departed and reentered the United States after being trafficked did not establish physical presence because he did not provide evidence that he suffered harm as a result of continued victimization); *In re 19062659* (PDF, 639.99 KB), Non-Precedent Decision (AAO Dec. 16, 2022) (finding that an applicant who departed and reentered the United States after being trafficked established physical presence because her reentries were the result of her continued victimization because she was still employed by her traffickers and subjected to constant and repeated threats by them); and *In re 14280188* (PDF, 666.92 KB), Non-Precedent Decision (AAO Sep. 9, 2021) (finding that an applicant who departed and reentered the United States after being trafficked established physical presence because her trafficker forced her reentry, controlled her, and she remained fearful of him).

[^ 56] Applicants may enter the United States through law enforcement agency "sponsorship," such as through a grant of parole to assist law enforcement. See 8 CFR 212.5. If DHS paroles an applicant to pursue civil remedies associated with an act or perpetrator of trafficking, the applicant meets the physical presence requirement because DHS facilitated the victim's entry into the United States for participation in an investigation or prosecution.

[^ 57] The term "judicial processes" refers to criminal investigations, prosecutions, and civil proceedings.

[^ 58] See 8 CFR 214.207(b)(3).

[^ 59] The term "judicial processes" refers to criminal investigations, prosecutions, and civil proceedings. Applicants may enter the United States through a grant of parole to assist law enforcement. If DHS paroles an applicant to pursue civil remedies associated with an act or perpetrator of trafficking, the applicant meets the physical presence requirement because DHS facilitated the victim's entry into the United States for participation in an investigation or prosecution.

[^ 60] See 8 CFR 214.207(b)(3).

[^ 61] See 8 CFR 214.207(b)(3).

[^ 62] See 8 CFR 214.207(b)(3). See 81 FR 92266, 92272-73 (PDF) (Dec. 19, 2016).

[^ 63] See 8 CFR 214.207(b)(4).

[^ 64] See 8 CFR 214.207(b)(4).

[^ 65] See 8 CFR 214.207(b)(5).

[^ 66] See INA 101(a)(15)(T)(i)(III)(aa).

[^ 67] See 8 CFR 214.201.

[^ 68] See 8 CFR 214.208(c).

[^ 69] See 81 FR 92266, 92275 (PDF) (Dec. 19, 2016).

[^ 70] See 81 FR 92266, 92275 (PDF) (Dec. 19, 2016). See 8 CFR 214.208(c).

[^ 71] The provisions of the T Final Rule, 89 FR 34864 (Apr. 30, 2024) apply generally to applications pending or filed on or after its effective date, August 28, 2024. However, regarding pending applications, no provision of the rule applies to an applicant who filed before August 28, 2024, if it would make an applicant who was eligible under the previous regulations, ineligible, such as the requirement at 8 CFR 214.208(b) to report to law enforcement with jurisdiction over the trafficking.

[^ 72] See 8 CFR 214.208(b).

[^ 73] See 8 CFR 214.208(b). The provisions of the T Final Rule, 89 FR 34864 (Apr. 30, 2024) apply generally to applications pending or filed on or after its effective date, August 28, 2024. However, regarding pending applications, no provision of the rule applies to an applicant who filed before August 28, 2024, if it would make an applicant who was eligible under the previous regulations, ineligible, such as the requirement at 8 CFR 214.208(b) to report to law enforcement with jurisdiction over the trafficking.

[^ 74] See 8 CFR 214.208(e).

[^ 75] See 8 CFR 214.208(e)(2).

[^ 76] See INA 101(a)(15)(T)(i)(III)(bb) and INA 101(a)(15)(T)(i)(III)(cc). See 8 CFR 214.208(e)(1).

[^ 77] See INA 101(a)(15)(T)(i)(IV).

[^ 78] See 8 CFR 214.209.

[^ 79] See 8 CFR 214.209(a).

[^ 80] See Volume 9, Waivers and Other Forms of Relief, Part B, Extreme Hardship, Chapter 5, Extreme Hardship Considerations and Factors, Section D, Examples of Factors that May Support a Finding of Extreme Hardship [9 USCIS-PM B.5(D)] and Section E, Particularly Significant Factors [9 USCIS-PM B.5(E)]. See *Matter of Anderson* (PDF), 16 I&N Dec. 596, 597 (BIA 1978). See *Matter of Kao and Lin* (PDF), 23 I&N Dec. 45 (BIA 2001). See *Matter of Pilch* (PDF), 21 I&N Dec. 627 (BIA 1996). See *Matter of Cervantes* (PDF), 22 I&N Dec. 560 (BIA 1999).

[^ 81] See 8 CFR 214.209(b).

[^ 82] See 8 CFR 214.209(b)(1).

[^ 83] See 8 CFR 214.209(b)(2).

[^ 84] See 8 CFR 214.209(b)(3).

[^ 85] See 8 CFR 214.209(b)(4).

[^ 86] See 8 CFR 214.209(b)(5).

[^ 87] See 8 CFR 214.209(b)(6).

[^ 88] See 8 CFR 214.209(b)(7).

[^ 89] See 8 CFR 214.209(b)(8).

[^ 90] See 8 CFR 214.209(b)(9).

[^ 91] See 8 CFR 214.209(c)(2).

[^ 92] See INA 212(a). Applicants for T nonimmigrant status are subject to all of the inadmissibility grounds at INA 212(a) except for the public charge ground of inadmissibility. See INA 212(d)(13)(A).

[^ 93] See INA 212(d)(13) and INA 212(d)(3). See Volume 9, Waivers and Other Forms of Relief, Part O, Victims of Trafficking [9 USCIS-PM O].

[^ 94] See INA 214(o)(1). See 8 CFR 214.202(e).

[^ 95] See INA 101(a)(3). See INA 101(a)(15). See INA 101(a)(20). See *Matter of C-G-*, 1 I&N Dec. 70 (BIA 1941) (noting that an alien may not be an immigrant and a nonimmigrant at the same time).

[^ 96] See 67 FR 4784, 4792 (PDF) (Jan. 31, 2002).