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Child Trafficking Victims' Routes to Federal Benefits

The Office of Refugee Resettlement (ORR) within Health and Human Services (HHS) is the agency charged with granting federal benefits to trafficked children. Therefore, all requests for benefits go to ORR. There are several routes to federal benefits for a trafficked child:

- request by a federal law enforcement agent
- request by a local law enforcement agent
- request by non-law enforcement, such as the child's attorney, social worker, etc.
- a grant of continued presence
- application for a T visa resulting in a bona fide T visa letter from the Department of Homeland Security (DHS)

Each route has different requirements and steps involved.

Request by Federal Law Enforcement Agent

This is the ***most straightforward*** of the three options. If a federal law enforcement agent (LEA) believes that a child has been trafficked, s/he can submit a request for benefits letter to the Office of Refugee Resettlement. ORR has created a ***standard letter*** for this purpose which collects only basic identifying information on the child. The federal LEA ***does not have to submit a narrative*** describing the trafficking that occurred or justifying the referral.

Steps involved:

- Federal LEA fills out request for benefits letter (blank letter attached)
- Federal LEA faxes or emails the letter to Antionette Aqui at ORR. Note: emails must come from a federal LEA email address
 - Fax: 202/401-0981
 - Email: aaqui@acf.hhs.gov
- ORR receives the request and generates a letter granting federal benefits to the child (also called a benefits letter, determination of eligibility letter, or eligibility letter). It usually takes one or two business days from receipt of the request to issuance of the benefits letter.
- ORR will usually contact LIRS and/or USCCB to refer the child for placement in a specialized foster care program (Unaccompanied Refugee Minor (URM) program) or for an assessment of the appropriateness of placement in a URM program
- The letter is faxed, then overnighted, to the designated point of contact for the child. This may be the foster care program the child will be entering, the child's attorney, or some other appropriate party.

Considerations:

- Estimated timeframe: days to weeks
- If a child is not already working with a federal LEA, it may be difficult and time consuming to find a federal LEA who will issue the request for benefits.
- Federal LEAs may want to conduct a lengthy investigation, possibly including multiple interviews with the child before feeling comfortable enough to request benefits. Law enforcement does not have to conduct a formal investigation or prosecution in order for a child to be eligible for benefits; however, federal LEAs may not be willing to request benefits without a formal investigation and/or assurance of prosecution.
- If a child does not want to work with law enforcement or the child's caregiver does not want the child to work with law enforcement, this process is usually not a viable option.

Request by Local Law Enforcement Agent

Local LEAs can also request benefits, but they **cannot use the standard letter** that ORR has created for federal LEAs. Therefore, a request by a local LEA is a bit **more involved** than one by a federal LEA. The local LEA needs to **submit a description of the trafficking** and make clear that what happened to the child meets the definition of trafficking in the federal law (the Trafficking Victims Protection Act of 2000 (TVPA)). For assistance in crafting this letter see "Requesting a Letter of Eligibility for a Trafficked Child."

Steps involved:

- Local LEA writes a summary of the trafficking that occurred. The summary must be detailed enough to demonstrate that what happened to the child is trafficking as defined in the TVPA. The local LEA may also include any charging documents or other information that would support their request for benefits.
- LIRS and/or USCCB child trafficking specialists are willing to review any request for benefits in order to provide guidance in framing the description of trafficking, what information is critical to include to demonstrate trafficking, etc.
- The letter should be faxed to Antoinette AQUI at ORR: aaqui@acf.hhs.gov
- Pursuant to a Memorandum of Understanding signed in July 2004 between the Department of Health and Human Services (HHS), the Department of Homeland Security (DHS) and the Department of Justice (DOJ), ORR will consult with DHS or DOJ in the determination of whether the child is a victim of a severe form of trafficking.
 - ORR will likely share the benefits request letter with the Department of Justice (DOJ). DOJ reviews the request and informs ORR whether they believe the child has been trafficked. Often DOJ will not make a formal determination until they have had someone in federal law enforcement interview the child.
- After consultation with DOJ or DHS, ORR will decide whether or not to issue benefits.
 - If benefits are issued, ORR will generate a letter granting federal benefits to the child (also called a benefits letter, determination of eligibility letter, or eligibility letter).
 - If benefits are not issued, advocates may continue to work with the child and with law enforcement to gather additional information to support the trafficking claim.
- The time from receipt of the request from local LEA to issuance of the letter can vary greatly but will likely take more than a week.

- ORR will usually contact LIRS and/or USCCB to refer the child for placement in a specialized foster care program (Unaccompanied Refugee Minor (URM) program) or for an assessment of the appropriateness of placement in a URM program
- The letter is faxed, then overnighted, to the designated point of contact for the child. This may be the foster care program the child will be entering, the child's attorney, or some other appropriate party.

Considerations:

- Estimated timeframe: several weeks
- Local LEAs may not be very knowledgeable about trafficking. This means that they will likely need a good deal of guidance in completing a benefits request letter.
- This process can take longer than the request by federal LEA because of the additional review by DOJ and possible federal interview.
- If a child does not want to work with law enforcement or the child's caregiver does not want the child to work with law enforcement, this process is usually not a viable option.

Request by Non-Law Enforcement (such as the child's attorney, social worker, etc.)

This type of request tends to be the ***most involved***. The child's advocate must write a ***detailed letter describing trafficking*** and make clear that what happened to the child meets the definition of trafficking in the federal law (the Trafficking Victims Protection Act of 2000 (TVPA)). For assistance in crafting this letter see "Requesting a Letter of Eligibility for a Trafficked Child," produced by LIRS and USCCB.

Steps involved:

- The child's advocate writes a summary of the trafficking that occurred. The summary must be detailed enough to demonstrate that what happened to the child is trafficking as defined in the TVPA. The letter should be accompanied by any supporting documentation that helps show that the child was trafficked.
- LIRS and/or USCCB child trafficking specialists are willing to review any request for benefits in order to provide guidance in framing the description of trafficking, what information is critical to include to demonstrate trafficking, etc.
- The letter should be faxed to Antoinette AQUI at ORR: aaqui@acf.hhs.gov
- Pursuant to a Memorandum of Understanding signed in July 2004 between the Department of Health and Human Services (HHS), the Department of Homeland Security (DHS) and the Department of Justice (DOJ), ORR will consult with DHS or DOJ in the determination of whether the child is a victim of a severe form of trafficking.
 - ORR will likely share the benefits request letter with the Department of Justice (DOJ). DOJ reviews the request and informs ORR whether they believe the child has been trafficked. Often DOJ will not make a formal determination until they have had someone in federal law enforcement interview the child.
- After consultation with DOJ or DHS, ORR will decide whether or not to issue benefits.
 - If benefits are issued, ORR will generate a letter granting federal benefits to the child (also called a benefits letter, determination of eligibility letter, or eligibility letter).
 - If benefits are not issued, advocates may continue to work with the child and with law enforcement to gather additional information to support the trafficking claim.

- The time from receipt of the request from local LEA to issuance of the letter can vary greatly but will likely take more than a week.
- ORR will usually contact LIRS and/or USCCB to refer the child for placement in a specialized foster care program (Unaccompanied Refugee Minor (URM) program) or for an assessment of the appropriateness of placement in a URM program
- The letter is faxed, then overnighted, to the designated point of contact for the child. This may be the foster care program the child will be entering, the child's attorney, or some other appropriate party.

Considerations:

- Estimated timeframe: several weeks
- The burden of proving that a child was trafficked is often greater for those who are not in law enforcement. Therefore, the letter requesting benefits often must be quite detailed.
- This process can take longer than the request by federal LEA because of the additional review by DOJ.
- While this is the best option if a child does not want to work with law enforcement or the child's caregiver does not want the child to work with law enforcement, current practice may ultimately require a law enforcement interview anyway. However, if DOJ requests a law enforcement interview and the child or child's guardian does not want to consent, please contact LIRS or USCCB for assistance.

Federal Law Enforcement Request for Continued Presence

Federal law enforcement can make a **request to DHS** to grant a child victim of trafficking what is called "continued presence." This allows children who may be potential witnesses to remain in the U.S. A child who is granted continued presence **also becomes eligible** for federal benefits.

Steps involved:

- A federal LEA completes paperwork necessary to request continued presence from DHS.
- The length of time from preparing request to granting of continued presence may be a few weeks or more.
- When DHS grants continued presence, ORR is notified.
- Upon notification ORR generates a letter granting federal benefits to the child (also called a benefits letter, determination of eligibility letter, or eligibility letter). It usually takes one or two business days from receipt of the request to issuance of the benefits letter.
- ORR will usually contact LIRS and/or USCCB to refer the child for placement in a specialized foster care program (Unaccompanied Refugee Minor (URM) program) or for an assessment of the appropriateness of placement in a URM program
- The letter is faxed, then overnighted, to the designated point of contact for the child. This may be the foster care program the child will be entering, the child's attorney, or some other appropriate party.

Considerations:

- Estimated timeframe: several weeks
- If federal law enforcement is willing to request continued presence, they should also be willing to issue a request for benefits to ORR. The benefits request is a much quicker route to benefits eligibility. An advocate working with a child who knows that law enforcement is requesting continued presence should advocate for a concurrent request for benefits directly to ORR. The benefits request should not preclude also requesting continued presence, which serves to give the child temporary legal status in the U.S.

Application for a T visa Resulting in a Bona Fide T visa Notice from DHS

An attorney or other advocate for a child may **submit a T visa application to DHS** before benefits have been requested. A bona fide T visa application **qualifies a child for federal benefits**. In some cases, this T visa application may be the only remaining route to benefits for a child if federal law enforcement has not been willing to request benefits or to support the request by the child's advocate.

Steps involved:

- An application for a T visa is submitted to DHS on behalf of the child. The length of time to prepare the application and to receive a response from DHS is often months.
- If DHS determines that the application is bona fide (essentially that it is complete, all necessary elements are included, and it appears on its face to demonstrate that the child was trafficked) they will complete a notice to that effect.
- A copy of the notice is sent to ORR, which then generates a letter granting federal benefits to the child (also called a benefits letter, determination of eligibility letter, or eligibility letter). It usually takes one or two business days from receipt of the request to issuance of the benefits letter.
- ORR will usually contact LIRS and/or USCCB to refer the child for placement in a specialized foster care program (Unaccompanied Refugee Minor (URM) program) or for an assessment of the appropriateness of placement in a URM program
- The letter is faxed, then overnighted, to the designated point of contact for the child. This may be the foster care program the child will be entering, the child's attorney, or some other appropriate party.

Considerations:

- Estimated timeframe: several months
- The T visa application can take considerable time to complete and adjudicate. Therefore, this is certainly not the quickest route to benefits. However, it may be the only available alternative in the absence of federal LEA support.
- The T visa application is fairly complicated and anyone completing one should either have experience with trafficking and/or immigration law or consult with someone with such experience.

Federal Law Enforcement Request for Benefits Letter

[This request may be faxed to the attention of Antoinette Aqui at 202/401-0981 or emailed to aaqui@acf.hhs.gov. Email requests must be sent from a law enforcement email address.]

MINOR VICTIMS

The **(name of office/district)** believes that the following **minor(s)** (a person who has not attained the age of 18) are victims of human trafficking under the Trafficking Victims Protection Act of 2000, Public Law 106-386 (the TVPA). Under the TVPA, a minor victim of human trafficking is eligible for certain benefits and services.

LAST NAME, FIRST NAME	A#	Country of Origin	DOB
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LAST NAME, FIRST NAME	A#	Country of Origin	DOB
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Respectfully submitted,

Name
Title
Contact Number