



May 29, 2019

Francis Cissna, Director
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue, NW
Washington, D.C. 20529

Re: Request for USCIS to Accept Prior Edition of Form I-918 Supplement B Through
December 31, 2019

Dear Director Cissna:

ASISTA is a national organization dedicated to safeguarding and advancing the rights of immigrant survivors of violence. We are nationally recognized experts on survivor-based forms of immigration benefits created through the Violence Against Women Act (VAWA) and its progeny. For over 15 years, ASISTA has worked with attorneys and advocates across the country who are helping survivors access the services and status they need to achieve safety and independence.

The American Immigration Lawyers Association (AILA) is a voluntary bar association of more than 15,000 attorneys and law professors practicing and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. Our more than 15,000 members practice and teach immigration law both in the United States as well as overseas.

We write to you regarding the May 2, 2019 announcement that USCIS will be requiring the new version of Form I-918 forms beginning July 2, 2019.¹ In this announcement, USCIS indicated that starting July 2, 2019, the agency will only accept the April 24, 2019 edition. Until then, individuals can use the February 7, 2017 edition. It is our understanding that there are no substantive changes to the Form I-918 that necessitate immediate implementation of the new form.

¹ USCIS. Form Updates, available at <https://www.uscis.gov/forms-updates>

As such, the two-month transition provides an insufficient grace period for I-918 Supplement B: U Nonimmigrant Status Certifications. Requiring law enforcement officials to utilize a new form without a sufficient grace period will cause significant hardship for victims of crime seeking U visa relief. When USCIS last proposed changes to the Form I-918: Petition for U Nonimmigrant Status, our organizations wrote to USCIS informing them that a 60-day transition period would be detrimental to law enforcement agencies and victims of crime, as well as strain time and resources for advocates who serve them.² USCIS recognized this hardship, and in a letter dated April 11, 2017, it stated:

*“Given the hardship that U applicants and law enforcement agencies will face without a longer grace period to transition to the use of the new form, we will extend the grace period to September 30, 2017.”*³

ASISTA Immigration Assistance and the American Immigration Lawyers Association (AILA) respectfully renew their request that USCIS extend the 60-day grace period and accept the February 7, 2017 edition of Form I-918, Supplement B, through December 31, 2019 to avoid creating unnecessary hardship for law enforcement agencies, victims of crime, and those who assist them. To illustrate this need, we submit the following examples:

Charlotte, North Carolina: Advocates report that the lack of sufficient grace period undermines the critical work necessary to fully and properly prepare and file a U visa applicant’s case, including obtaining essential documentation to support their application. They indicate that “to shorten the time to prepare and file also creates a new stressor for clients, one that may compound existing stressors related to being low income victims of crime.” They further state:

“Additionally, by shortening the time to prepare and file, there is a possibility that we will need to return to the law enforcement agencies to sign once again but on the new version of the form. Law enforcement agencies and other certifiers already struggle under the volume of U certification requests they receive. This additional burden of re-certification on the new form will only cause delay for the victim with the meritorious case and all of those in that agency’s queue awaiting certification. For the sake of victims, we must guard against unnecessary burdens like the one USCIS recently created through its requirement of the new I-918B starting 7/2 without sufficient notice to stakeholders.”

² ASISTA and AILA. Letter to Acting Director Scialabba March 21, 2017, available at , <https://asistahelp.org/wp-content/uploads/2019/05/AILA-and-ASISTA-Letter-on-I-918-Forms-3.21.17-2.pdf>

³ USCIS. Letter to ASISTA April 11, 2017 [Emphasis added], available at <https://asistahelp.org/wp-content/uploads/2019/05/USCIS-Letter-Extension-of-U-visa-Grace-Period-2017.pdf>

Los Angeles, California: Advocates at a legal service provider report that the short grace period for the I-918 forms would double the amount of cases that need to get filed within approximately the next month given that I-918 Supplement B certifications on the old version will only be accepted until July 2, 2019. This provider indicated that their agency does not have the bandwidth to file a few hundred cases within this time frame, given their current caseload. Based on their experience, they note that some certifiers are very reluctant to re-certify for any reason, and so, they do not anticipate being able to get new certifications for many cases. They indicate:

“With some other law enforcement agencies, we may be able to get a new cert but it is going to be a time consuming endeavor, which we do not have full capacity to undertake. Some law enforcement agencies take time to respond, so we may not have responses by the time the deadline approaches.”

New York, NY: Non-profit agencies often rely on critical pro bono partnerships to meet the needs of their communities. One agency reports that this month they will place many U visa cases with law firms for completion this summer, and most have U visa certification expiration dates in July—September 2019. They report:

“It will be nearly impossible to get all new certifications in time to place with firms, and not also burn bridges with our certifiers. Requesting more than one U visa certification for a client from a certifier will add to the workload of that certifying agency, and could either cause them to respond less quickly to U certification requests or possibly instituting a rule that they will not recertify. Pro Bono representation is very important to our community because it multiplies the number of clients who can be served. Instead of an individual attorney at our agency representing as many clients as possible, we are able to mentor attorneys who represent hundreds of immigration clients and provide excellent representation to immigrants in New York.”

Washington, DC area: Attorneys with a legal service agency indicate that in some instances requests for I-918 Supplement B certifications can remain pending with certifying agencies for lengthy periods, sometimes up to a year or 18 months. By requiring certifications to be submitted on a new form with only two months of notice, significant numbers of certification requests will either have to be resubmitted (re-starting the lengthy 12-18 month wait), or will significantly burden the certifying agencies by requiring them to dramatically adjust their workflow processes to incorporate the new forms into their queue of requests. Certifying agencies become frustrated when asked to re-certify a case for which they have already provided a certification in instances in which that certification is no longer accepted by USCIS. This may cause certifying agencies to foreclose this relief to victims by declining to issue a new certification. This agency reports:

“These concerns are already challenging where our agency is working directly with a client and has long-established relationships with certifying agencies. However they are further compounded when applicants for U visa relief are working with pro bono counsel who may not have the same relationships with the U visa certifiers.”

A significant extension of the grace period is necessary to ensure that I-918 Supplement B forms that have already been submitted to law enforcement agencies will be accepted as valid support for U visa applicants who are currently awaiting that form to perfect their applications. Given that the new version contains *no* substantive changes as compared to the prior version, USCIS would still be ensured that it is receiving full and complete information that it needs to adequately and thoroughly review applicants’ eligibility. Thus, the extension of the grace period should not hinder adjudications. In contrast, extending the grace period through December 31, 2019 would give certifying agencies the time they need to review and approve certifications now filed with them, and give practitioners and crime survivors ample time to obtain those certifications.

Extending the transition period would further the dual goals articulated by Congress when it created the U visa: to create a useful tool for law enforcement when working with immigrant populations, and to help noncitizen crime victims safely access our criminal justice system. Thank you for your attention to this critical matter. Should you have any questions or require additional information, please contact Cecelia Friedman Levin at cecelia@asistahelp.org.

Sincerely,

AILA National
ASISTA Immigration Assistance

cc: Mark Koumans, Deputy Director, USCIS
Lora Ries, Chief of Staff, USCIS
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