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Dear Ms. Krieger and Ms. Levin:

On behalf of ASISTA, we respectfully submit this letter addressing a mismatch between DHS employment authorization regulations and Social Security Administration (“SSA”) guidance on noncitizen employment authorization, as applied to U nonimmigrants.

ASISTA is a 501(c)3 nonprofit organization whose mission is to advance the dignity, rights, and liberty of immigrant survivors of violence. For over 15 years, ASISTA has been a leader on policy advocacy to strengthen protections for immigrant survivors of domestic violence, sexual assault, human trafficking and other crimes identified in the Violence Against Women Act (VAWA) and the Trafficking Victims Protection Act (TVPA). We assist advocates and attorneys across the United States in their work on behalf of immigrant survivors and submit this letter based on our guiding principles and our extensive experience.

8 C.F.R. § 274a.12(a)(19)-(20) states that *all* U nonimmigrants (including U-1 principals and their derivatives) are employment authorized incident to status. Thus, U nonimmigrants are not required to possess an employment authorization document (“EAD”) to work lawfully in the United States. USCIS’s [Handbook for Employers](#) has further clarified that U Nonimmigrants are not required to possess an EAD to work lawfully in the United States. For U Nonimmigrants, who have already experienced trauma and waited several years to be granted status, the inability to obtain a Social Security Number and work without an EAD keeps them in limbo unnecessarily, causing continual harm.

Despite the clear language in the DHS regulations and the Handbook, SSA’s [Program Operations Manual System](#) (“POMS”) lists U nonimmigrants under the section “[Noncitizens] Requiring an EAD from DHS Authorizing Employment.” SSA requires all noncitizens listed in this section to produce an EAD to obtain a Social Security Number. SSA’s requirement for U nonimmigrants to present an EAD is contrary to DHS regulations and SSA’s own policies on evidence of employment authorization.

The POMS states that a Form I-94 that shows a Class of Admission “that has employment authorization inherent to that class” is “evidence proving a non-immigrant’s employment authorization.” Employment authorization is “inherent to” U nonimmigrant status. *See* 8 C.F.R. § 274a.12(a) (“the following classes of [noncitizens] are authorized to be employed in the United States without restrictions...*as a condition of* their admission or subsequent change to one of the indicated classes.”) (emphasis added.) Thus, all U nonimmigrants should be able to present their Form I-94 showing admission as a U nonimmigrant to SSA as proof of employment authorization and thereafter immediately obtain a Social Security Number. SSA’s policy of requiring additional documents from U nonimmigrants to establish employment authorization is erroneous.

Given the current EAD adjudication backlogs, SSA’s erroneous policy of requiring U nonimmigrants to present EADs causes them real harm. Due to the backlogs, U nonimmigrants must wait several months to receive their EADs. SSA’s policy forces them to live in the United States for several months without a Social Security Number. The lack of a Social Security Number creates many barriers for these noncitizens, including the inability to work or obtain drivers’ licenses. The ability to work and obtain drivers’ licenses is critical to their ability to establish stability, safety, and autonomy after the trauma they have suffered.

SSA’s policy of requiring U nonimmigrants to present EADs in order to obtain Social Security Numbers is erroneous and contrary to DHS regulations. It also causes harm to U nonimmigrants given current EAD adjudication backlogs. Thus, ASISTA respectfully requests that OP & S encourage SSA to change their policy and ensure that U nonimmigrants are no longer required to present EADs in order to obtain Social Security Numbers. Such a policy change is consistent with DHS regulations that make it abundantly clear that U nonimmigrants are employment authorized incident to their status.

We sincerely appreciate your time and assistance with this matter.

Sincerely,

Cristina Velez  
Legal & Policy Director

Kelly Head  
Staff Attorney