POLICY ALERT:
Policy Manual Updates to 8 USC § 1367 Confidentiality Protections[1]

February 3, 2026

What Happened?

On December 22, 2025, the United States Citizenship and Immigration Service (USCIS) released an update to its Policy Manual relating to confidentiality protections located at 8 USC § 1367 ("1367 protections").[2] The Policy Manual update was issued purportedly to "restore integrity to the legal immigration system" and to "better combat fraud and ensure that only qualified [noncitizens] receive immigration benefits."[3] This Policy Alert will review the changes introduced by the policy update and provide initial guidance to practitioners filing cases affected by them.

1367 protections apply to noncitizens who have pending or approved survivor-based petitions, or in certain circumstances, when USCIS is aware of the intention to file a covered benefit request, specifically relief under the Violence Against Women Act (VAWA), such as Petition for Amerasian, Widow(er), or Special Immigrant (Form I-360) VAWA self-petitions and Petition to Remove Conditions on Residence (Form I-751) (joint filing waivers based on battery or extreme cruelty), Employment Authorization for Battered Spouses of Certain Nonimmigrants (I-765V), T nonimmigrant status applications, or U nonimmigrant status petitions, as well as their derivatives and beneficiaries.

8 USC § 1367 contains two protections that apply to USCIS:

1) the prohibited source provision at 8 USC § 1367(a)(1); and

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[1] Copyright 2026, ASISTA Immigration Assistance. This Policy Alert was authored by Cristina Velez, ASISTA Legal & Policy Director, with helpful input from Rebecca Eissenova, ASISTA Senior Staff Attorney, Lia Ocasio, ASISTA Staff Attorney, Kelly Byrne, ASISTA Staff Attorney, Heather Ziemba, ASISTA Anti-Trafficking Project Attorney, and Cecelia Friedman Levin, Alliance for Immigrant Survivors (AIS) Advocacy Coordinator.

[2] USCIS, *Policy Alert: Applicability of 8 U.S.C. 1367(a)(1) and (a)(2) Provisions* (December 22, 2025), https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20251222-VAWAConfidentiality.pdf.

[3] *Id.*

2) the non-disclosure provision at 8 USC § 1367(a)(2).

The update does not affect the non-disclosure provision, which prevents unauthorized disclosure of any information relating to the applicant for a covered benefit to anyone other than an officer or employee of DHS, the Department of Justice (DOJ), or Department of State (DOS) for a legitimate agency purpose, unless a statutory exception applies. However, the Policy Manual update significantly alters how USCIS implements the prohibited source provision. That provision prevents the Department of Homeland Security (DHS) from relying on information provided ***solely*** by a prohibited source—meaning the VAWA abuser or certain members of their household, the U visa crime perpetrator, or the T visa trafficker—in its adjudications of survivor-based applications.

Changes as Described by USCIS

The announcement of the updated guidance highlighted the following changes and clarifications:[4]

- Changes the application of the "prohibited source" provisions, now allowing DHS to consider information from a "prohibited source" in certain circumstances *[ASISTA note: The updated Policy Manual applies a strict textualist interpretation of these provisions. DHS will now be allowed to consider "prohibited source" information when an applicant for U, T, or VAWA relief has been convicted of deportable offenses under INA § 237(a)(2), and/or when making decisions about eligibility for relief, which reflects the statutory language in 8 USC § 1367.]*;
- Clarifies the duration of the confidentiality provisions of 8 USC § 1367, and how USCIS will consider evidence submitted about the protected noncitizen;
- Clarifies that confidentiality provisions required by 8 USC § 1367 will be reinstated if DHS initiates denaturalization proceedings [*ASISTA note: the updated Policy Manual language does not address this point, and actually removes language in the prior version that 1367 protections should be reinstated upon consideration of denaturalization proceedings]*;
- Clarifies that only adults can waive confidentiality protections;
- Clarifies that noncitizen registration and change of address requirements apply to those protected under the confidentiality provisions;

[4] *See* USCIS, *News Alert: USCIS Restores Integrity to the VAWA, T Nonimmigrant, and U Nonimmigrant Programs After Suspected Fraud* (December 22, 2025), https://www.uscis.gov/newsroom/alerts/uscis-restores-integrity-to-the-vawa-t-nonimmigrant-and-u-nonimmigrant-programs-after-suspected.

- Expands access to the USCIS Contact Center to allow attorneys and representatives of protected noncitizens to submit case inquiries; and
- Clarifies safe mailing procedures for protected noncitizens who only give USCIS a physical address for correspondence.

ASISTA's Initial Analysis of the Update

In our view, the major updates to 8 USC § 1367 protections relate to 1) the narrowed scope of the prohibited source provisions, 2) clarification of the duration of confidentiality protections, and 3) clarification of address requirements for U, T, and VAWA petitioners.

The updates are "**effective immediately and appl[y] to requests pending or filed on or after [Dec. 22, 2025]**."[5] While USCIS asserts that it reviewed retroactivity concerns before making the updates immediate, ASISTA encourages practitioners with clients adversely affected by reliance on the prior version to thoroughly research the due process implications for themselves.[6]

1. **Narrowed Scope of Prohibited Source Provisions**

The most significant changes announced in the Policy Manual update relate to USCIS's implementation of the prohibited source provision at 8 USC § 1367(a)(1). As noted above, the prohibited source provision has previously been described by USCIS as a broad constraint on its authority to rely *solely* on information provided by a prohibited source (i.e., the abuser, perpetrator, or trafficker of the applicant) in decisions about U, T, or VAWA related petitions. The statute permits a far narrower scope of constraint, however. It states that information provided solely by a prohibited source may not be relied upon to "*make an adverse determination of admissibility or deportability*."[7] Further, the statute contains an exception to the prohibition if "the [noncitizen] *has been convicted of a crime or crimes listed in section 237(a)(2)* of the [INA]." USCIS's adoption of a textual interpretation of the prohibited source provision represents a major policy shift in the treatment of immigrant survivors. Even though this language appears in the law, USCIS acknowledged in its Policy Alert that it has never been operationalized.[8]

   a. **Prohibition on the use of information provided by an abuser or trafficker is limited to determinations of admissibility or deportability**

[5] *Id*. (emphasis added).
[6] *See, e.g.*, *Landgraf v. USI Film Products*, 511 U.S. 244 (1994) (describing the due process and fairness implications of retroactive application of law).
[7] 8 USC § 1367(a)(1).
[8] *Supra* n. 2.

The updated Policy Manual narrows the prohibited source prohibition to determinations of admissibility or deportability in line with a strict textual application of the statute. It provides that determinations related to admissibility or deportability include "certain denials, revocations, or Notice to Appear (NTA) issuance."[9] The Policy Manual states that USCIS will treat information received from a prohibited source as "inherently suspect" and will "obtain[] independent corroborative information from an unrelated (and not prohibited) source before making an adverse determination of admissibility or deportability against [a noncitizen] based on that information."[10] The Policy Manual states that USCIS will treat anonymously-provided adverse information in the same way as information received from a prohibited source.[11]

However, according to the updated Practice Manual, USCIS *can consider* information provided by abusers, perpetrators, or traffickers when making other determinations, i.e., eligibility for relief, and exercise of discretion. The revised Policy Manual defines these non-admissibility or deportability determinations as including "[r]ejections, decisions on deferred action, and decisions relating to employment authorization," along with "denials of Petition[s] for Amerasian, Widow(er) or Special Immigrant (Form I-360) for VAWA self-petitioners, Petition[s] to Remove Conditions on Residence (Form I-751), or Application[s] for Employment Authorization for Abused Nonimmigrant Spouse (Form I-765V)."[12]

In other words, **when determining whether a VAWA self-petitioner has established the necessary element of a good faith marriage, the USCIS may consider information provided solely by their abusive U.S. citizen or lawful permanent resident spouse contesting that they entered the marriage in good faith.**[13] According to the updated Policy Manual, USCIS could rely on that information if the adjudicator determines it to be credible, without seeking independent corroborating evidence.[14] Another example would be of a trafficker or an abusive partner of a U or T visa petitioner alleging that the applicant was the primary aggressor of domestic violence or had participated in trafficking others.

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[9] 1 USCIS-PM A(7)(E)(1).
[10] 1 USCIS-PM A(7)(E)(2) (citing Implementation of Section 1367 Information Provisions (PDF), DHS Instruction 002-02-002, Revision 00.1, issued November 7, 2013 (revised April 29, 2019)).
[11] *See id*.
[12] *Supra* n. 9. Note that despite the inclusion of only VAWA-related examples here, the prohibited source provision at 8 USC § 1367(a)(1) applies to U and T petitioners as well.
[13] This is an actual example cited in the updated Policy Manual: "If an officer reviews the record and determines that information provided by the source is credible, and such information is sufficient to establish that the marriage was not entered into in good faith, the officer shall deny the Form I-360 or Form I-130 and is not required to seek additional independent corroborating evidence." 1 USCIS-PM A(7)(E)(2).
[14] *See* 1 USCIS-PM A(7)(E)(2).

Despite this narrowing of the prohibition, the updated Policy Manual specifies that information provided by prohibited sources should be evaluated by USCIS using accepted practices for determining the information's credibility. This includes considering "the apparent motivation of the source, and the reliability and credibility of the statement in the context of the other evidence in the record."[15] Further, the Policy Manual states that "[o]fficers retain discretion to corroborate such statements by third party sources on a case-by-case basis."[16] Filers who receive RFEs, NOIDs, or decisions relying on prohibited source information should cite to this Policy Manual language and argue why it would be erroneous for USCIS to rely on that information in their case.

b. USCIS will apply the prohibited source exception to petitions filed by applicants convicted of deportable offenses under INA § 237(a)(2)

In addition to narrowing the application of the prohibited source prohibition at 8 USC § 1367(a)(1) to matters of admissibility or deportability, the Policy Manual update implements the statutory exception to the prohibition for applicants convicted of deportable offenses. This exception appears at the end of 8 USC § 1367(a)(1) following the enumeration of prohibited sources, where it states that information provided by prohibited sources shall not be considered in admissibility or deportability determinations "*unless* the [noncitizen] has been convicted of a crime or crimes listed in section 237(a)(2) of the [INA]."[17] Thus, for U, T, or VAWA petitioners who have been convicted of offenses listed in INA § 237(a)(2), USCIS will consider "all the information within the record during adjudication," including information provided by prohibited sources without having to obtain independent corroboration.[18]

Only a conviction will trigger the prohibited source exception.[19] The offenses described at INA § 237(a)(2) are:

- Crimes involving moral turpitude (CIMT) (INA §§ 237(a)(2)(A)(i) and (ii));
- Aggravated Felonies (INA § 237(a)(2)(A)(iii));
- High Speed Flight from an immigration checkpoint (INA § 237(a)(2)(A)(iv));
- Failure to register as a sex offender (INA § 237(a)(2)(A)(v));

[15] *Id*.
[16] *Id*.
[17] 8 USC 1367(a)(1) (emphasis added).
[18] *Supra* n. 13.
[19] INA § 101(a)(48)(A) (defining a conviction as a formal judgment of guilt entered by a court or, if adjudication is withheld, a judge/jury finds the person guilty, they plead guilty/nolo contendere, or admit sufficient facts to warrant guilt, combined with a judge-ordered penalty, punishment, or restraint on liberty.)

- Controlled substance convictions, other than a single offense involving possession for one's own use of 30 grams or less of marijuana (INA § 237(a)(2)(B)(i));
- Certain firearms offenses (INA § 237(a)(2)(C));
- Espionage, sabotage, treason or sedition and related offenses (INA § 237(a)(2)(D));
- Crimes of domestic violence, stalking, child abuse, and violation of a protection order if the latter results in a conviction (INA § 237(a)(2)(E)); and
- Trafficking (INA § 237(a)(2)(F).

USCIS will apply the prohibited source exception to an immigrant survivor seeking U, T, or VAWA-based relief who has been convicted of one of these offenses. Thus, adverse information about them sent to USCIS from a prohibited source will *not* require "independent corroborative information from an unrelated (and not prohibited) source" before USCIS can make "an adverse determination of admissibility or deportability… based on that information."[20]

Practitioners should note that the exception only applies to survivors who have *convictions* for deportable offenses under INA § 237(a)(2), and that conduct alleged to have been committed (or admitted to) without a conviction should not trigger the exception.[21] USCIS will determine if a petitioner has been convicted of a deportable offense triggering the exception by reviewing "criminal history record information available in DHS systems, affirmative statements made by the [noncitizen], evidence provided by the [noncitizen], or other conclusive documents in the record."[22] If unclear from the record, USCIS "must request additional evidence before proceeding."[23] Practitioners should take care to review their clients' background checks and evidence of inadmissibility for convictions triggering this exception.

The conviction need not be related to the relief sought to trigger the exception to the prohibited source provision. For example, consider a VAWA one-step self-petitioner convicted of shoplifting, which is considered to be a CIMT in this case. This conviction will trigger the exception, allowing USCIS to consider adverse information provided by her abuser. If the abuser submits a tip or writes a letter to USCIS claiming that this VAWA self-petitioner has committed smuggling or made false representations, USCIS will consider the abuser's information without the negative credibility inference.

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[20] *Supra* n. 13.
[21] *See supra* n. 18. However, USCIS may still consider whether the petitioner is inadmissible based on conduct or admissions in the course of determining whether they are eligible for the relief sought.
[22] *Supra* n. 13.
[23] *Id*.

Similarly, the consequence to a survivor seeking U or T status, for example, is that their abuser or trafficker may allege conduct that meets a ground of inadmissibility that the petitioner has not sought to be waived. For example, an abuser or trafficker could allege that the survivor has a mental health disorder making them inadmissible under INA § 212(a)(1), has engaged in prostitution in violation of INA § 212(a)(2)(D), or committed a CIMT or controlled substance offense, grounds which they did not seek to waive. USCIS should make them aware of adverse information prior to issuing a denial of their petition, but ultimately may deny their petition and/or request for a waiver of inadmissibility based solely on the word of their abuser or trafficker.

The updated Policy Manual illustrates the interplay between the prohibited source provision and its exception in the below chart:[24]

<table>
<tr><th colspan="5">Applicability of the Prohibited Source Provision</th></tr>
<tr><th>If…</th><th>Then…</th><th>Has [Noncitizen] Been Convicted of Crime Listed under INA 237(a)(2)?</th><th>Is USCIS Officer Making Adverse Determination of Admissibility or Deportability?</th><th>Applicability of Prohibited Source Provision</th></tr>
<tr><td rowspan="3">The record contains information from someone listed as a prohibited source under 8 U.S.C. 1367(a)(1).</td><td rowspan="3">USCIS officers reviews available information to determine whether the [noncitizen] has been convicted of a crime listed under INA 237(a)(2).</td><td>Yes</td><td>→</td><td>Prohibited source provision does not apply.</td></tr>
<tr><td rowspan="2">No</td><td>USCIS officer is making an adverse determination of admissibility or deportability.</td><td>Prohibited source provision applies.</td></tr>
<tr><td>USCIS officer is NOT making an adverse determination of admissibility or deportability.</td><td>Prohibited source provision does not apply.</td></tr>
</table>

[24] *Supra* n. 13.

When there is derogatory information in the record of which the petitioner is not aware, USCIS must provide a detailed description of the information and an opportunity to rebut it before issuing a denial.[25] A separate section of the Policy Manual states that:

> When USCIS intends to deny the benefit request based on derogatory information of which the benefit requestor is unaware and the information is not prohibited from being disclosed as described above, USCIS may, in some discretionary instances, provide a legible copy of the primary source document containing the derogatory information to the benefit requestor. USCIS may attach the primary source document to a NOID, RFE, NOIR, or NOIT, with necessary redactions.[26]

Particularly where USCIS plans to initiate enforcement action premised on, or as a result of, a denial based on information provided by a prohibited source, practitioners should consider whether due process requires the USCIS to allow examination of the adverse information in question rather than merely a description, and an opportunity to contest it or examine its source.

2. Clarification of Duration of Confidentiality Protections

The updated Policy Manual alters some of the wording describing the duration of confidentiality protections contained in 8 USC § 1367, but does not meaningfully change USCIS policy. The Policy Manual provides that the prohibited source provision at 8 USC § 1367(a)(1) and the non-disclosure provision at 8 USC § 1367(a)(2) are both triggered once a 1367-protected application is filed or when USCIS becomes aware of a survivor's intention to file a 1367-protected application, as in the case of VAWA I-751 waiver applicants. The update further provides that both of these protections end at naturalization, and that the non-disclosure provision ends at the time the petition is denied and all opportunities for appeal have been exhausted.[27]

Both the announcement and the Policy Alert issued by USCIS include as a highlighted change or clarification that confidentiality provisions required by 8 USC § 1367 will be reinstated if DHS initiates denaturalization proceedings. However, this language is not reflected in the actual updated Policy Manual. The prior version of the Policy Manual

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[25] *See* 1 USCIS-PM E(6)(G). *See also* 8 CFR 103.2(b)(16)(i) ("If the decision will be adverse to the applicant or petitioner and is based on derogatory information considered by the Service and of which the applicant or petitioner is unaware, he/she shall be advised of this fact and offered an opportunity to rebut the information and present information in his/her own behalf before the decision is rendered, except as provided in paragraphs (b)(16)(ii), (iii), and (iv) of this section.").

[26] 1 USCIS-PM E(6)(G) [citations removed].

[27] *See supra* n. 13. Note that termination of 1367 protections at naturalization is not a new policy, as acknowledged in the Policy Alert announcing these Policy Manual changes. *See supra* n. 2 (*citing* USCIS PA-2024-15, Customer Service and Interpretation of 8 U.S.C. 1367 Confidentiality Protections for U.S. Citizens (June 12, 2024.)).

stated that 1367 protections would be reinstated if DHS considered denaturalization proceedings. The change suggested by the USCIS announcement and Policy Alert is from "consider" to "initiate," but the Policy Manual language does not mention denaturalization proceedings at all.

Finally, the Policy Manual notes that only adults can waive confidentiality protections.[28]

3. Clarification of Address Requirements for U, T, and VAWA Petitioners

a. Physical Address Requirements:

The updated Policy Manual contains the statement that "[n]othing in this guidance excuses a [noncitizen] from providing USCIS with his or her physical address, where required by statute, regulation, or form instruction."[29] ASISTA has already seen reports of applications being rejected for failure to include physical addresses on forms, in favor of writing "confidential" in the required street address field. Unfortunately, at least where form instructions or other authorities require them[30], USCIS appears to be taking the approach that physical addresses are non-negotiable, even for survivors of abuse and trafficking who do not have fixed physical addresses or do not consider them safe to provide to an agency that frequently mis-addresses mail. Moreover, the updated Policy Manual confirms that USCIS may disclose information included in applications covered by 8 USC § 1367 to other branches of DHS. Despite this, the updated Policy Manual reiterates that safe mailing address procedures will be abided.

When filing AR-11 change of address forms for clients with pending survivor-based benefits applications, practitioners should list the safe address as the client's mailing address so that USCIS does not use the client's new physical address for mail. Practitioners should also take care to list all of the forms on which the client wishes to update their address (e.g., I-918, I-918A, I-192, and I-765).

b. Registration and Change of Address Requirements:

In addition, the updated Policy Manual confirms that registration and change of address requirements apply to petitioners covered by 1367 protections.[31] Although this was previously known,[32] it was unclear to many practitioners if the completion of biometrics

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[28] *See supra* n. 13.
[29] 1 USCIS-PM A(7)(E)(4).
[30] Note that N-400 form instructions currently don't require physical addresses from DV survivors. *See* USCIS, *Fact Sheet: Naturalization for VAWA Lawful Permanent Residents*, https://www.uscis.gov/sites/default/files/document/fact-sheets/DO_FactSheet_NatzForVAWALawfulPermResidents_V3_508.pdf.
[31] *See supra* n. 29.
[32] ASISTA, *Policy Alert: Registration Requirement* (March 25, 2025), https://asistahelp.org/wp-content/uploads/2025/03/Registration-Policy-Alert.pdf.

for a U, T, or VAWA self-petition would satisfy registration requirements, as many such petitioners who attempted to register received notices that they were already registered. The updated Policy Manual offers no further information about that, but given the ambiguity and the potential negative impact of a failure to register, ASISTA recommends that petitioners who choose to register after being informed of the risks continue to attempt to do so even after the completion of biometrics and save any notices received in response that indicate they are already registered.

c. Access to USCIS Contact Center:

The updated Policy Manual discusses expanded access to the USCIS Contact Center for attorneys and representatives of survivors covered by 1367 protections. It appears USCIS will no longer require the noncitizen applicant or petitioner themselves to be on the call, which was often enforced before this update. For these cases, USCIS will seek to verify the identity of the inquirer and their eligibility to receive information. The Policy Manual further states that a caller to the Contact Center should have receipt notices on hand, and a copy of the application they are calling about.[33]

How Are Immigrant Survivors Affected?

Many pending cases were filed under the prior version of the Policy Manual but will be adjudicated under the updated one. On the same day that it issued these updates to confidentiality protections located at 8 USC § 1367, USCIS issued a Policy Manual update pertaining to VAWA self-petitions. A separate ASISTA policy alert describes these changes, but it is important to note the intersection of the narrowed prohibited source protection and the updated Policy Manual language pertaining to the "any credible evidence" standard and how USCIS will assess evidence of eligibility for relief.

If and when cases are denied under the new Policy Manual language, many survivors will be put into removal proceedings. In today's enforcement environment, many could be subjected to detention as well, including, potentially, "mandatory" detention, with its cascading consequences. All who are detained will face the detriment of new trauma and separation from support systems that compound the trauma and stress already caused by abuse.

The narrowing of prohibited source protections represents a major policy shift that dovetails with DHS's misplaced focus on fraud by petitioners and invigorates the harmful cultural mythology that allegations of sexual assault are frequently fabricated,[34] such that these policy changes erect barriers of ingrained disbelief that each survivor

[33] *See supra* n. 28.
[34] *See, e.g.,* Deborah Epstein & Lisa A. Goodman, *Discounting Women: Doubting Domestic Violence Survivors' Credibility and Dismissing Their Experiences*,167 U. Penn. L.R. 399 (2019), https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=3055&context=facpub.

must overcome to access protections. Practitioners should continue to hold USCIS to their obligation to fairly assess the petitioner's credibility and provide an opportunity to contest adverse information provided by their abusers, perpetrators, or traffickers.

ASISTA and our partners will be issuing further analysis and best practices based on this policy manual update in the near future.

Additional Resources:

USCIS PA-2025-33, "Policy Alert: Violence Against Women Act" (December 22, 2025)

ASISTA, *Policy Alert: Policy Manual Updates for VAWA* (February 2, 2026), available here.