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Requesting a Letter of Eligibility for a Trafficked Child

The following is intended to provide guidance for requesting a Letter of Eligibility from HHS for child victims of human trafficking.¹

Address Requests to: Dept of Health & Human Services Trafficking in Persons Program, 901 D Street, SW, Ste 600 East, Washington, DC 20447, Fax #: (202) 401-0981

**RE: Office of Refugee Resettlement Eligibility for a Minor Victim of Trafficking
 NAME, DOB (if known), A# (if known)**

<u>Main Points</u>	<u>Information to Include²</u>	<u>Examples/Considerations</u>
<u>Introduction</u>	<ul style="list-style-type: none"> ▪ Name and request for issuance of a letter of eligibility ▪ Date of birth ▪ Nationality ▪ Concise statement of theory or theories of trafficking ▪ Who were the traffickers? What was their intent? 	<ul style="list-style-type: none"> ▪ State any time-sensitive issues that make issuance of a Letter of Eligibility an urgent matter <ul style="list-style-type: none"> ▪ If a child is close to turning 18 and will need to go to court for someone to get custody before her/his 18th birthday, note when the child would need the benefits letter in order to get to court in time. ▪ <i>Throughout the Request for a Letter of Eligibility the most crucial element is demonstrating that the child was trafficked for the purpose of commercial sex or for forced labor.</i> ▪ Snakeheads, parents, or smugglers intent to exploit the child ▪ A person or entity in the U.S. (commercial sex enterprise, labor network, migrant labor, service industry)
<u>Statement of Law [see below for language from TVPA]</u>	<ul style="list-style-type: none"> ▪ Trafficking Victims Protection Act of 2000 (TVPA) (22 USC 7101) ▪ Define relevant terms, i.e. “severe forms of trafficking in persons” (TVPA §103(8)), “sex trafficking” (TVPA §103(9)), “coercion” (TVPA §103(2)). ▪ <i>Demonstrate that client fits within definition of “victim of a severe form of trafficking” (TVPA §103(13))</i> 	

¹ This guide is not intended as a guide for federal law enforcement to request a Letter of Eligibility.

² **Often child trafficking cases are quite clear based on the circumstances of the child’s rescue, escape or interdiction, and it is therefore not necessary to discuss all the issues outlined in this chart. In preparing a request for Letter of Eligibility, the child’s advocate should use their best judgment in determining which issues are most relevant to demonstrating that a child is a victim of human trafficking.**

<u>Main Points</u>	<u>Information to Include²</u>	<u>Examples/Considerations</u>
<u>Background</u>	<ul style="list-style-type: none"> ▪ Child's background ▪ Family background 	<ul style="list-style-type: none"> ▪ How much schooling? ▪ Has s/he been made to work in his/her home country? ▪ Languages spoken? ▪ Unwanted child? ▪ Other children more favored? ▪ Who did/does s/he live with?
<u>Emigration Plan</u>	<ul style="list-style-type: none"> ▪ What were the relevant circumstances of the child's emigration? ▪ What did the child know about the emigration? 	<ul style="list-style-type: none"> ▪ Did the child want to emigrate? Was s/he given a real choice in the matter? ▪ Who arranged the emigration? ▪ Was the emigration intended to pay off that person's consumer or other debt? ▪ What were the stated reasons for the emigration (e.g., to re-pay a family debt, to support the family, for a better life for the child)? ▪ Did anyone accompany the child? ▪ Was money paid or promised? By whom? ▪ Was the child destined to a specific location? Specific job? ▪ Did s/he know what the payment/debt arrangements were? If so, what were they? ▪ How long did s/he think it would take him/her to pay off his/her debt? ▪ How much money did s/he expect to earn? ▪ Who, if anyone, did s/he expect to meet at him/her final point of destination? ▪ Had s/he known of this person before the plan to emigrate developed? ▪ Had his/her parents or guardians known of this person before the plan to emigrate? ▪ Was the person related to the child? If so, how closely? ▪ Was the person from the child's town or village? ▪ Did s/he have an expectation as to what his/her living arrangements would be? ▪ What were his/her expectations as to school? ▪ What assurances were given to him/her or to his/her family and by whom? ▪ Did s/he expect to return to his/her homeland or be reunited with his/her family? ▪ Did his/her parents make arrangements to be in contact with him/her after his/her point of destination? ▪ What efforts did his/her parents make to ensure that s/he was headed to a safe environment? ▪ Met with or at least talked to his/her eventual caretaker? ▪ Knew the caretaker by reputation? ▪ Knew other people in the place of abode or work?

<u>Main Points</u>	<u>Information to Include²</u>	<u>Examples/Considerations</u>
<u>The Emigration</u>	<ul style="list-style-type: none"> ▪ Emigration ▪ Interdiction (if it occurred before the exploitation) ▪ Treatment of the child during the emigration and/or exploitation. 	<ul style="list-style-type: none"> ▪ Did the child suffer abuse during the emigration? ▪ Was s/he coached on a story to tell authorities? ▪ With whom and how did s/he travel? ▪ Where was the child interdicted? ▪ Were others interdicted with him/her? ▪ Was the child physically or sexually abused at any time? ▪ Was s/he forced to take drugs? ▪ Was s/he threatened during the course of travel or during the exploitation? ▪ Was s/he coerced in any way during his/her travel or exploitation? Was s/he forced to do things s/he didn't want to do?
<u>Exploitation</u>	<ul style="list-style-type: none"> ▪ Description of exploitation 	<ul style="list-style-type: none"> ▪ <u>If it occurred before the child was rescued or interdicted:</u> <ul style="list-style-type: none"> ▪ In what kind of labor or commercial sex was the child involved? ▪ With whom was the child living and what were the living circumstances? ▪ Was the exploitation in the same place the child was living? ▪ If the child was working, was s/he paid for his/her work? How much? How often? ▪ What was being done to care for the child? (Food, clothing, medical care, education opportunities for play and interaction with other children). ▪ <u>If the labor or commercial sex exploitation had not occurred,</u> what indicia were there that the child was destined for labor or commercial sex exploitation?
<u>Interdiction, Rescue and Escape</u>	<ul style="list-style-type: none"> ▪ How did it happen? ▪ Did anyone likely associated with the traffickers try to contact the child after interdiction, rescue or escape? ▪ Were threats or demands directed at the 	<ul style="list-style-type: none"> ▪ Where was the child interdicted? By whom? ▪ Were others interdicted with her? ▪ An attorney working for snakeheads, coyotes or pimps ▪ A pimp or other exploiter associated with such person ▪ Could be a child who lived with the exploiter and who may also be a victim ▪ The parents, other family member or guardian of the child ▪ Could possibly be a trafficker or in cahoots with a trafficker ▪ Has the child been threatened about owing money or having to earn money to send back home? ▪ Has the family or another person been threatened or

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	child? <ul style="list-style-type: none"> ▪ Other signs of trafficking? 	pressured to make good on the child's debt?
<u>Conclusion & Request for Issuance of a Letter</u>	<ul style="list-style-type: none"> ▪ Summarize theory of trafficking and emphasize that because the child was trafficked s/he should be made eligible for benefits. ▪ Include statement of any exigencies (e.g., need for services or care that a Letter of Eligibility would afford). ▪ Include a statement as to whether and to what extent the child is willing to cooperate with law enforcement (e.g., not at all, partially [e.g., no interview], fully) and as to whether this letter may be shared with <i>the Civil Rights Division of the Department of Justice</i>. 	

Statement of Law definition of terms:

Severe forms of trafficking in persons.--The term "severe forms of trafficking in persons" means—

(A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

TVPA §103(8).

SEX TRAFFICKING – The term "sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act. TVPA §103(9).

(2) COERCION.—The term "coercion" means—

(A) threats of serious harm to or physical restraint against any person;

(B) 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

(C) the abuse or threatened abuse of the legal process.

TVPA §103(2)