

<b>EMPLOYMENT AND TRAINING ADMINISTRATION          ADVISORY SYSTEM          U.S. DEPARTMENT OF LABOR          Washington, D.C. 20210</b>	<b>CLASSIFICATION</b> Victims of Trafficking & Violence Protection Act of 2000
	<b>CORRESPONDENCE SYMBOL</b> OWS
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TRAINING AND EMPLOYMENT GUIDANCE LETTER NO. 19-01

**TO:** ALL STATE WORKFORCE LIAISONS  
 ALL STATE WORKFORCE AGENCIES  
 ALL STATE WORKER ADJUSTMENT LIAISONS  
 ALL ONE-STOP CENTER SYSTEM LEADS

/S/  
**FROM:** EMILY STOVER DeROCCO  
 Assistant Secretary

**SUBJECT:** Victims of Trafficking and Violence Protection Act of 2000

1. **Purpose.** To provide information to the One-Stop delivery system on the Victims of Trafficking and Violence Protection Act of 2000, and guidance how the One-Stop delivery system can offer assistance to trafficking victims under The Workforce Investment Act of 1998 (WIA).

2. **References.** The Victims of Trafficking and Violence Protection Act of 2000 (the Act) (Public Law 106-38); The Workforce Investment Act of 1998 (WIA) (Public Law 105-220, 29 U.S.C. 2801 et seq.); WIA Final Rule, 20 C.F.R. parts 652, 660-671 (65 F.R. 49294 (August 11, 2000)); Interim Final Rule implementing the nondiscrimination and equal opportunity provision (section 188) of WIA, 29 C.F.R. part 37 (64 F.R. 61692 (November 12, 1999)); The Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

3. **Background.** Trafficking in persons is a modern form of slavery. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. An estimated 50,000 women and children are believed to be trafficked into the United States each year. Victims are often lured into trafficking networks through false promises of good working conditions and high pay as domestic workers, factory and farm workers, nannies, waitresses, sales clerks, or models. Other victims are simply kidnapped. Traffickers force their victims into the international sex trade, prostitution, slavery, and forced labor through coercion, threats of physical violence, psychological abuse, torture and imprisonment.

<b>RESCISSIONS</b>	<b>EXPIRATION DATE</b> Continuing
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It is believed that most victims who are trafficked remain undetected by the public because the strategies used by the perpetrators isolate victims and prevent them from coming forward, and the public and victim service providers have only recently become aware of this issue and may not be familiar with how to recognize or respond to trafficking victims.

According to the findings of Congress, as cited in the Act, trafficking in persons is increasingly perpetrated by organized, sophisticated criminal enterprises. Such trafficking is the fastest growing source of profits for organized criminal enterprises worldwide. Profits from the trafficking industry contribute to the expansion of organized crime in the United States and worldwide (Section 102(b)(8)). To deter these crimes, the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-38) (the Act) was enacted in October 2000. Its aims are to combat trafficking worldwide through increased law enforcement, to prevent trafficking through international initiatives, to ensure effective punishment of traffickers, to protect victims and to provide federal and state assistance to victims. The law applies to victims physically present in the 50 states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

To improve prosecution efforts, the Attorney General has issued guidance concerning federal prosecutions under the Act, detailing the important new law enforcement tools available under the Act. For example, those convicted of trafficking offenses may be imprisoned for up to 20 years and, in some instances, for life. Moreover, the Act includes new criminal provisions to address the subtle means of coercion that traffickers often use to bind their victims in servitude, including: psychological coercion, trickery, and the seizure of documents, activities which were difficult to prosecute under preexisting involuntary servitude statutes and case law.

The following descriptions are illustrative of some of the cases the Department of Justice has prosecuted in 2001 alone:

- In August 2001, a federal grand jury indicted three men, charging them with violations of numerous federal statutes, including involuntary servitude and forced labor. Two others pleaded guilty to conspiracy. They allegedly held nearly 250 Vietnamese and Chinese workers (mostly young women) in involuntary servitude for over two years in the U.S. Territory of American Samoa, using them as forced labor in a garment factory. The workers were coerced by threats of harm, assaults, beatings, extreme food deprivation, and threats of deportation with severe economic consequences. About 180 of the victims remain in the United States and are helping law enforcement. Trial is scheduled for April 2002.
- In June 2001, three men pleaded guilty in federal district court to bringing two sixteen-year-old Russian girls to Anchorage, Alaska to dance nude in a strip club. The two main defendants were sentenced in August and September 2001 to 46 and 30 months incarceration.
- In March 2001, a Berkeley, California multimillionaire pleaded guilty to using beatings and threats to hold girls captive whom he had brought into the United States from India to

work in his real estate business. The defendant was sentenced to 97 months incarceration and was ordered to pay \$2 million in restitution to four of his victims.

To coordinate the investigation, prosecution and protection of victims of trafficking and other exploitive work practices, the Trafficking in Persons and Worker Exploitation Taskforce was established in 1998. The Taskforce is co-chaired by the Assistant Attorney General for Civil Rights and the Solicitor of Labor. Participating federal partners are the Departments of Justice, Labor, State, Agriculture, and Health and Human Services, the Equal Employment Opportunity Commission, and the National Labor Relations Board. ETA staff have been assisting in this effort for some time, including training Justice field staff in the services available through the One-Stop system.

4. **Definition.** Under Sections 107(b)(1)(A) and (B), the Act requires that the Secretary of Labor provide benefits and services to victims of severe forms of trafficking in persons to the same extent as aliens who are admitted to the United States as refugees, without regard to their immigration status. Under section 103(8) of the Act, 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.

5. **Victims of Human Trafficking in the One-Stop System.** One-Stop line workers can assist trafficking victims in three ways.

First, if an individual comes to a One-Stop Center who may be a victim of trafficking but has not already made contact with the Department of Justice, the Justice Department should be notified immediately at their victims of crime hotline at 1-888-428-7581.

Second, One-Stop staff can determine the eligibility of the individual for services under WIA Title I. Under section 107(b) of the Victims of Trafficking and Violence Protection Act of 2000, an alien who is a victim of a severe form of trafficking is eligible for WIA on the same basis as individuals with refugee status under section 207 of the Immigration and Nationality Act. Thus all states, including those that generally limit eligibility for WIA services to the individuals specified in WIA section 188(a)(5), may not deny WIA funded services available to victims of severe forms of trafficking based on their immigration status.

An alien's status as a victim of a severe form of trafficking may be demonstrated in various ways. Some trafficking victims may have the usual immigration documents needed to confirm eligibility. Others will have letters of certification from the Office of Refugee Resettlement in the Department of Health and Human Services (HHS). Section 107(b) of the Act makes trafficking victims eligible for benefits to the same extent as refugees under ' 207 of the Immigration and Nationality Act. Victims of trafficking who have been certified by HHS are eligible for services under WIA Title I. As with any participant, they must meet program

eligibility requirements to receive WIA Title I services. A sample certification letter is attached for reference. Also attached is an HHS directive to its state partners that provides detailed information on the letters' issuance and use. The certification process is handled by HHS at the federal level, and any questions about these certification letters can be directed to Neil Kromash at 202-401-5702 ([nkromash@acf.dhhs.gov](mailto:nkromash@acf.dhhs.gov)) or Jay Womack at 202-401-5525 ([jwomack@acf.dhhs.gov](mailto:jwomack@acf.dhhs.gov)) who manage the certification process at HHS.

Children who are under 18 years old and who have been subjected to trafficking do not need to be certified by HHS to be eligible for benefits to the same extent as refugees. The One-Stop staff may look at any available evidence to determine whether a person under 18 years old has been trafficked, such as the Office of Refugee Resettlement letter issued by HHS (see attached sample letter), legal guardian's or parent's attestation and/or status as a refugee. As with any participant, they must meet all applicable program eligibility requirements to receive WIA Title I services.

Some victims of trafficking will have been issued "T" visas that have been created by section 107(e) of the Act to both protect trafficking victims, and to assist law enforcement officials in finding and bringing traffickers to justice. Aliens with T visas are eligible for WIA funded services as immigrants authorized to work in the United States. The T visa allows for certain trafficking victims to live and work legally in the United States for three years, after which they may be eligible to become permanent residents. This visa will be available to victims of a severe form of human trafficking who have complied with a reasonable request to assist the investigation or prosecution of traffickers, or who are under age 15, and who would "suffer extreme hardship involving unusual and severe harm" if made to leave the United States. Because the families of trafficking victims who are still in the country of origin may be at risk, trafficking victims may petition to have their spouses and children, and if under 21, their parents, join them in the United States if these family members would suffer "extreme hardship." Other trafficking victims may be permitted to remain in the United States under section 107(c)(3) of the Act. Trafficking victims may be assisting the Federal courts in the prosecution of their captors. In these cases, the victim witness coordinators in the local U.S. Attorney's Office may be working with them to arrange necessary services. These witness coordinators have been instructed to contact their local One-Stop center to arrange workforce development services.

Third, many trafficking victims will require a broad range of social services, including provision of housing, protection from those who have exploited them, medical care, and counseling. Beyond the basic necessities, they very often will need basic literacy training and instruction in English and other academic and vocational services. Some of these services can be provided at a One-Stop Center, but assisting these individuals will require coordination among social service agencies and community-based organizations. For trafficking victims aged 16 to 24, Job Corps may be the most appropriate program if they qualify, since it supplies the basic necessities, as well as training in English as a Second Language, literacy, and vocational training in one location.

**6. Other Department of Labor Activities.** The Department of Labor is engaged in combating trafficking and assisting its victims in three other ways.

First, the Bureau of International Labor Affairs has initiated a number of projects to combat trafficking in persons in the countries of origin and/or in transit. These projects enhance international compliance, help countries avoid sanctions, and are intended to stop the problem before it arrives at U.S. shores. ILAB is also working with the International Labor Organization regarding trafficking of children.

Second, the Women's Bureau has prepared a publication. "Trafficking in Persons: A Guide for Nongovernmental Organizations," which is intended to provide NGOs with information about Federal laws that prohibit trafficking in persons and the services that victims may receive. A copy of this publication is attached. It is also available at the Women's Bureau website at [www.dol.gov/dol/wb/public/media/reports/trafficking.htm](http://www.dol.gov/dol/wb/public/media/reports/trafficking.htm).

Third, the Department's Wage and Hour Division, which enforces the Fair Labor Standards Act (FLSA), is taking an aggressive stance in dealing with employers who are abusing trafficked workers in matters of pay and hours worked. A Wage and Hour official in each of their regional offices has been designated to deal with trafficked-worker situations. Contact information for these officials is included as an attachment to this directive. Wage and Hour also has a program called AWARE (Alternatives for Worker Rights Education) in which community and faith-based organizations can assist workers in documenting violations of the FLSA, which can lead to recovery of wages, among other things. Information about AWARE is available from the local Wage and Hour Division office.

7. **Action required.** Provide this guidance to appropriate staff, especially intake workers and front line staff within the One-Stop system. Promptly contact the victims of crime hotline at the Justice Department should you encounter individuals who you believe may be victims of trafficking in persons.

8. **Inquiries.** Questions should be addressed to your regional office.

9. **Attachments.**

A. The Victims of Trafficking and Violence Protection Act of 2000 (the Act) (Public Law 106-38):

<http://www.usdoj.gov:80/eoir/vll/legislation/HR3244.pdf>

B. Non-pdf version of the Act, Division A only:

[http://www.ojp.usdoj.gov:80/vawo/laws/vawo2000/stitle\\_a.htm](http://www.ojp.usdoj.gov:80/vawo/laws/vawo2000/stitle_a.htm)

C. HHS Office of Refugee Resettlement State Letter #01-13:

<http://www.acf.dhhs.gov/programs/ofa/traffic/stateltr.htm>

D. HHS Office of Refugee Resettlement "Summary Page":

<http://www.acf.dhhs.gov/programs/ofa/traffic/orrsum.htm>

E. HHS Office of Refugee Resettlement "Frequently Asked Questions":

<http://www.acf.dhhs.gov/programs/ofa/traffic/faqtraff.htm>

F. Sample copy of a certification letter for an adult victim of a severe form of trafficking:  
<http://www.acf.dhhs.gov/programs/ofa/traffic/adultltr.htm>

G. Sample copy of a letter for children:  
<http://www.acf.dhhs.gov/programs/ofa/traffic/childltr.htm>

H. Wage and Hour Regional contact list

I. Women's Bureau publication "Trafficking in Persons: A Guide for Non-Governmental Organizations": <http://www.dol.gov/dol/wb/public/media/reports/trafficking.htm>