

Frequently Asked Questions on U and T Visa Certification: What State and Local Labor Enforcement Agencies Need to Know

1. U and T Visa Overview

Q: What is a crime victim visa (U Visa or T Visa)?

A: Congress created the U nonimmigrant visa in 2000 when it passed the Victims of Trafficking and Violence Protection Act. Its purpose was to encourage immigrants to report crimes to law enforcement and also to afford protection for those willing to cooperate. Congress intended that the law would protect victims of domestic violence and other violent crimes, but it also explicitly expressed its intent that the visa would protect against qualifying workplace-related crimes. U Visas provide legal status to victims of an enumerated list of “qualifying criminal activities” who meet the relevant elements.

The T visa was also established by the Victims of Trafficking and Violence Protection Act of 2000. Like the U visa, the T visa provides legal status to certain victims of human trafficking.

State and local labor standards enforcement agencies can certify the U visa certification form (I-914) and/or the T visa certification form (I-918), based on the relief the requester is seeking. U or T Visa certification does not confer an immigration benefit; rather the certification is one part of a petition for U or T nonimmigrant status, the merits of which will be evaluated by the Department of Homeland Security.

Q: What elements must be met for an applicant to obtain a U or T Visa?

A: To obtain a U visa, the applicant must show:

- (1) They have suffered substantial physical or mental abuse as a result of having been a victim of a qualifying criminal activity;
- (2) They have information about the criminal activity;
- (3) They have been helpful, is being helpful, or is likely to be helpful in the investigation or prosecution of the crime; and
- (4) The criminal activity violated local, state, or federal law, or occurred in the U.S.¹

¹ 8 C.F.R. § 214.14 (2024)

Victims of trafficking may qualify for a T visa if:

- (1) They have experienced a “severe form of trafficking in persons”;
- (2) Are physically present in the United States on account of such trafficking;
- (3) They complied with any reasonable request for assistance in the federal, state, or local investigation or prosecution of acts of trafficking; and
- (4) They demonstrate that they would suffer extreme hardship involving unusual and severe harm upon removal.²

Q: What are the benefits of a U or T Visa?

A: The U visa provides certain benefits, including certain social benefits, a work permit for four years, lawful nonimmigrant status for up to four years, derivative benefits for spouses and children under 21, and eligibility to adjust status to lawful permanent resident after three years. U Visas are capped at 10,000 per year, and there is a significant U visa processing backlog.

The benefits provided by a T visa include: certain federal and state benefits and services, a work permit for four years, lawful nonimmigrant status for up to four years, derivative benefits for spouses and children under 21, and eligibility to adjust status to lawful permanent resident after three years. The T visa is not subject to an annual cap.

2. Certification Authority

Q: What does a state or local labor standards agency need to establish to certify a U or T visa?

A: The certification is an attestation that the agency has found: (1) the person is a victim of a qualifying criminal activity; (2) the person has been, is being, or is likely to be helpful in the detection, investigation, or prosecution of the qualifying criminal activity (or is exempt), and has complied with all reasonable requests for assistance; (3) the information listed on the form is accurate to the best of the official’s knowledge; and (4) the certifier has direct knowledge of the information listed or has reviewed relevant records.

² 8 C.F.R. §§ 214.200–.216 (2024).

Q: Can a state or local labor standards agency certify a U or T visa even if those agencies don't enforce the qualifying crimes, like human trafficking or assault?

A: Yes. A state or local labor agency's authority to complete U visa certifications (Form I-918, Supplement B) and T visa certifications (Form I-914, Supplement B) is based on its role as a law enforcement agency that has detected a qualifying crime. Thus, agencies do not need the authority to prosecute crimes to certify. Rather, under federal regulations, certification is permitted if the agency *detects* a qualifying crime, which can occur during administrative investigations, wage claims, or other workplace encounters.³

Importantly, investigation or prosecution of a qualifying crime is not required. For example, some state departments of labor have indicated that they will certify based on whether any of the full range of possible qualifying crimes is alleged to have occurred in the workplace and there is a reasonable belief that a qualifying crime occurred.

Example: If, during a wage and hour investigation, an employee reported to a local labor standards investigator that his supervisor had assaulted him at work, then the labor agency could determine that a qualifying crime occurred and thus would have "detected" the crime.

Q: What does it mean to "detect" a crime for certification purposes?

A: In order to be eligible for a U Visa, the requester must possess "credible and reliable information establishing that he or she has knowledge of the details concerning the qualifying criminal activity . . . [and] must possess specific facts regarding the criminal activity leading a certifying official to determine that the petitioner has, is, or is likely to provide assistance to the *investigation or prosecution* of the qualifying criminal activity."⁴ Investigation or prosecution refers to the "detection or investigation of a qualifying crime or criminal activity, as well as to the prosecution, conviction, or sentencing of the perpetrator of the qualifying crime or criminal activity."⁵ While 8 C.F.R. 214 does not define "detection," the plain meaning of the word means "the act of discovering or revealing something that is hidden or barely perceptible, esp. to solve a crime."⁶

Thus, a requester needs only to *provide—or show they are likely to provide—assistance* in solving or prosecuting a crime, specifically, "credible and reliable information establishing that he or she has knowledge of the details concerning the qualifying criminal activity."⁷ The underlying crime does not need to be solved or prosecuted in order for the agency to certify a request.

³ Department of Homeland Security regulations (8 C.F.R. § 214.14(a)(2) and 8 C.F.R. 214.11(a)) expressly list certain enforcement agencies that may certify U and T visa applications, including local law enforcement agencies. In doing so, the Department of Homeland Security recognized that local labor standards investigators may detect evidence of qualifying criminal activity or trafficking during the course of investigating violations of workplace laws.

⁴ 8 C.F.R. § 214.14(b) (2024) (emphasis added).

⁵ *Id.* at (a)(5).

⁶ Black's Law Dictionary (12th ed. 2024).

⁷ 8 C.F.R. § 214.14(b)(2) (2024).

Q: Are state or local labor agencies liable if they certify for qualifying criminal activity that is ultimately not prosecuted or substantiated?

A: No. Agencies are not liable if the crime is not prosecuted. Department of Homeland Security guidance notes:

...a current investigation, the filing of charges, a prosecution or conviction are *not required* to sign the law enforcement certification . . . there is no statute of limitations on signing the law enforcement certification. A law enforcement certification can even be submitted for a victim in a closed case.⁸

Additionally, a certifying law enforcement agency or official cannot be held responsible or liable “for the future actions of a victim for whom the agency signed a certification or to whom DHS granted a U visa.”⁹ This is because U visa certification only affirms that “the person was a victim of a qualifying crime, possessed information relating to the crime, and was helpful in the investigation or prosecution of that crime.” DHS guidance states that “the certification does not guarantee the future conduct of the victim or grant a U visa.”¹⁰

3. Scope of Certifiable Crimes

Q: Should state or local labor agencies only certify for specific, enumerated crimes, or any qualifying criminal activity (QCA) that occurs in a workplace?

A: Different jurisdictions have taken different approaches. Some agencies, like the Wage and Hour Division of the U.S. Department of Labor, limit certification to a subset of the crimes enumerated as QCA.¹¹ By contrast, other state departments of labor will certify *any* QCA as long as it occurs in the context of a workplace. Take, for example, a situation where an employee was sexually assaulted by another employee at the workplace. Some states might consider certification because the sexual assault occurred in the context of the workplace, even though their respective labor standards enforcement agencies do not prosecute sexual assault cases.

⁸ U.S. Dep’t of Homeland Sec., U Visa Law Enforcement Certification Resource Guide (2011), https://www.dhs.gov/xlibrary/assets/privacy/dhs_u_visa_law_enforcement_certification_guide.pdf.

⁹ *Id.*

¹⁰ *Id.*

¹¹ The Wage and Hour Division has limited certification to eight qualifying criminal activities: involuntary servitude, peonage, trafficking, obstruction of justice and witness tampering, fraud in foreign labor contracting, extortion and forced labor. Notably, there is some overlap between U and T visas, as “forced labor” is generally recognized as a crime that is “similar” to the crimes of trafficking, involuntary servitude and peonage. Thus, it may also be the basis of a U visa certification. See 8 C.F.R. 214.14(a)(9) (“any similar activity” – meaning “criminal offenses in which the nature and elements of the offenses are substantially similar to the statutorily enumerated list of criminal activities” – also constitutes qualifying criminal activity for U visa purposes).

Q: Can state or local labor agencies certify if the investigation is closed or if there was no wage violation?

A: Yes. Department of Homeland Security guidance notes that, “a current investigation, the filing of charges, a prosecution or conviction are *not required* to sign the law enforcement certification . . . there is no statute of limitations on signing the law enforcement certification. A law enforcement certification can even be submitted for a victim in a closed case.”¹²

Example: A state department of labor conducted an overtime investigation, ultimately finding no overtime violations. After the case was closed, an employee reached out to the agency to report that during the investigation, the employer instructed all workers to lie to agency investigators about their hours worked. Even if the statute of limitations has run on the overtime claims, the state labor agency could still reasonably detect a QCA of witness tampering or obstruction. Thus, certification may be appropriate even though the overtime case is closed.

4. Certification Procedures

Q: Who at the state or local agency should complete the certification form?

A: The U visa Certification form (I-914) and the T visa certification form (I-918) must be *signed* by the certifying agency—not the victim, nor their attorney or representative—but they can be completed by someone other than the certifying official.

Signature: The forms must be signed by the head of the certifying agency, or someone in a supervisory role who has been designated as a “certifying official.” (The certifying official can also be a federal, state, local, tribal, or territorial judge.)

The certification signature is an attestation that the *agency* has found: (1) the person is a victim of a qualifying criminal activity; (2) the person has been, is being, or is likely to be helpful in the detection, investigation, or prosecution of the qualifying criminal activity (or is exempt), and has complied with all reasonable requests for assistance; (3) the information listed on the form is accurate to the best of the official’s knowledge; and (4) the certifier has direct knowledge of the information listed or has reviewed relevant records.

Completing the form: Some state and local labor agencies elect to have the applicant, or the applicant’s representative or attorney, present a completed form to the agency for review and certification. Other agencies, like U.S. Department of Labor’s Wage and Hour Division WHD (WHD), complete the form on behalf of the applicant using information the agency collected after interviewing the applicant. WHD’s FAQ document on certification states, “should the WHD

¹² U.S. Dep’t of Homeland Sec., U Visa Law Enforcement Certification Resource Guide (2011), https://www.dhs.gov/xlibrary/assets/privacy/dhs_u_visa_law_enforcement_certification_guide.pdf.

determine a certification is appropriate, it will complete only one portion of the application, the Form I-914 (T visa) or Form I-918 (U visa), Supplement B certification.”¹³ In either scenario, certification requires an attestation that the certifier has direct knowledge of the information listed in the certification or has reviewed relevant records.

Q: Should state or local labor agencies include detailed narratives or keep forms brief?

A: Practices vary. Some agencies prefer concise summaries, while others accept or attach more detailed affidavits. Overly detailed forms could result in mistakes or misstatements, which could create inconsistencies with the completed U or T visa application. Thus, it may be advisable to strike a balance between providing sufficient information without details that are irrelevant for purposes of a U or T visa. For example, an agency could state, when supported by credible facts, that a worker was promised a wage payment and was either underpaid or not paid at all, instead of referencing a specific wage.

Q: What if state or local labor agencies receive a Request for Evidence (RFE) from USCIS?

A: RFEs are uncommon but possible. For example, an agency could receive an RFE asking whether the worker is still helpful, even shortly after certification. This should *not* be interpreted as rejection, but may reflect USCIS processing delays or review patterns. An agency should assess the RFE and respond to straightforward requests with the appropriate information. If an agency receives a confusing or questionable RFE, it should seek advice from its counsel as to how to proceed.

Q: Do agencies have to certify or deny a request within a certain time period?

A: No, but it is a best practice to establish a time period for review and share that time period with applicants, stakeholders, and legal services providers. Additionally, agencies can create an expedited review process when a worker is in removal proceedings.

Q: Does an agency have to give a reason or appeal rights if it declines to certify a U visa or T visa request?

A: No, but it is a best practice to provide a written reason for the denial and an opportunity for the worker or their representative to provide a written response.

¹³ U.S. Dep’t of Labor, U and T Visa Process and Protocols: Frequently Asked Questions, <https://www.dol.gov/agencies/whd/immigration/u-t-visa/faq>.

5. Staffing Models & Structural Considerations

Q: Should certification responsibilities be centralized or decentralized?

A: Both models are used. A centralized model is where certifications are handled by a dedicated unit or individual within the agency, whereas a decentralized model would permit investigators to process certification requests. Centralized models ensure consistency and reduce the burden on investigators. Decentralized models leverage familiarity with individual cases. For example, an investigator who interacts with an employer that is hiding records or witnesses would be primed to detect obstruction of justice or witness tampering QCA's and could work directly with the crime victim. Notably, this model requires extensive training and resources for investigators.

Q: Should certification be done by someone other than the investigator?

A: Some agencies separate the certification process from investigations to avoid the appearance of bias, claims of quid pro quo participation in the investigation, and conflicts of interest (appearance of bias, and any concern related to that, may turn on relevant case law in the jurisdiction). For example, WHD bifurcates investigations from certifications, stating, "it is possible that a WHD Investigator will detect a qualifying criminal activity or trafficking during the course of an investigation. Should this occur, the WHD Investigator will provide information about the detection to the appropriate [Regional Coordinator for Workplace Crimes], who may refer the underlying qualifying criminal activity (QCA) or trafficking to appropriate law enforcement agencies in accordance with its normal protocols for referral of criminal laws not enforced by WHD."¹⁴

6. Worker Support & Representation

Q: Can state or local labor agencies certify for unrepresented workers?

A: Technically, yes, but many agencies prefer that workers have representation to ensure they understand the immigration process and any risks associated with filing U or T visa applications. Some agencies will proceed with certification where appropriate when an applicant is unrepresented, but will simultaneously refer workers to attorneys wherever possible.

¹⁴ *Id.*

Q: Can agencies give immigration advice?

A: No. Agencies do not represent applicants; their roles are limited to certifying eligibility for U/T visas. Private attorneys, legal services providers, or community organizations can provide workers and applicants with information about whether a U or T visa is appropriate to their legal situation, as well as any risks that may be associated with applying, processing timelines, and fees. State and local labor agencies only complete the U and T visa supplement B form, and not the actual U or T visa application.

7. Outreach & Communication

Q: How are state and local labor agencies sharing information about U/T visa certifications to stakeholders?

A: Strategies include sharing information with legal listservs, immigrant worker coalitions, state bar groups, and through direct outreach with unions or community-based organizations. Some state labor agencies have reported relying on relationships with immigration attorneys and community groups to share that their offices certify U/T visas.

Q: Should state or local labor agencies have a public-facing list of qualifying crimes or eligibility policy?

A: There is no requirement that labor agencies have a public-facing list of qualifying crimes for which they will certify, but it is a best practice. For example, the [New Jersey DOL](#) has found value in publishing guidance to support advocates and reduce back-and-forth.

8. Evaluation, Metrics & Outcomes

Q: Do agencies track how many certifications are approved by USCIS?

A: Most agencies do not systematically track approvals due to long processing times, which can be upward of five years. Moreover, the Department of Homeland Security does not provide this information to certifying agencies. Direct follow-up with workers is the best way to track this information, and some state partners have reported anecdotal confirmation that certifications have led to successful applications.

Q: Have any state or local labor agencies received Requests for Evidence (RFE) from DHS?

A: Yes, but RFEs are relatively uncommon. For example, one state partner received an RFE asking for confirmation of helpfulness months after certification, but other states reported that they have never received an RFE.

9. Anticipated Trends & Strategic Considerations

Q: Are U/T visa requests expected to rise or fall in the near future?

A: Uncertainty remains. Some agencies are preparing for increased interest, while others note that immigration enforcement fears may depress applications.

Q: Should agencies invest in certification capacity even if volume is low?

A: Yes. Several state agency partners emphasized that even if case numbers remain low, certification can offer life-changing benefits for crime victims, especially in conservative or under-resourced regions.