

February 23, 2026

Office of the General Counsel
U.S. Department of Homeland Security
245 Murray Lane, SW
Mail Stop 0485
Washington, DC 20528-0485

RE: Petition for Rulemaking

Dear Madam or Sir:

The Center for Immigration Studies (CIS) hereby submits the enclosed Petition for Rulemaking, asking the Department of Homeland Security (DHS) to amend its regulations 8 C.F.R. § 214.14, titled “Alien victims of certain qualifying criminal activity,” governing the U nonimmigrant visa eligibility and application process.

This petition for rulemaking is submitted in accordance with 5 U.S.C. § 553(e) (“Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.”) and the process set forth for such petitions under 6 C.F.R. Part 3.

Please direct all future communications regarding this petition to Elizabeth Jacobs, Director of Regulatory Affairs and Policy, Center for Immigration Studies [ejaj@cis.org].

I. Interest of Petitioners

CIS is a national, nonprofit, public-interest organization comprised of concerned citizens who share a common belief that our nation’s immigration laws must be enforced and that policies must be reformed to better serve the national interest. CIS examines trends and effects, educates the public on the impacts of sustained high-volume immigration, and advocates for sensible solutions that enhance America’s environmental, societal, and economic interests today and into the future.

II. Statutory and Regulatory Authority to Grant the Petition

The Homeland Security Act of 2002 (“HSA”) created DHS and transferred to it many functions related to the execution of federal immigration law.¹ By operation of the HSA, certain references to the Attorney General in the INA are understood to refer to the Secretary.²

Accordingly, Congress has delegated to the Secretary of Homeland Security the authority to promulgate regulations to carry out the Secretary’s authority to administer and enforce the INA and “all other laws relating to the immigration and naturalization of aliens.”³ The Secretary's

¹ See Public Law 107-296, 116 Stat. 2135, as amended.

² 6 U.S.C. § 557.

³ INA § 103(a)(1)-(3).

authority thus includes the authority to publish regulations governing the inspection, admission, detention, removal, withholding of removal, and release of aliens encountered in the interior of the United States or at or between the U.S. ports of entry.

In addition, under the HSA, the Attorney General retains the authority to “establish such regulations . . . , issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out” his authorities under the INA.⁴

INA § 214(a) specifically authorizes the Secretary of Homeland Security to prescribe, by regulation, the terms and conditions of the admission of nonimmigrants to the United States. INA § 101(a)(15) establishes classifications for aliens who are temporarily authorized to be in the United States as nonimmigrants.

Congress created the U nonimmigrant classification in the Battered Immigrant Women Protection Act of 2000 (BIWPA).⁵ INA § 101(a)(15)(U) defines the U nonimmigrant visa classification. INA § 214(p) sets forth certain procedural and substantive requirements for the U nonimmigrant classification, including employment authorization for U nonimmigrants incident to status and discretionary employment authorization for those with pending, *bona fide* U nonimmigrant visa petitions.

Specifically, to qualify for the U nonimmigrant classification:

- The alien must have suffered substantial physical or mental abuse as a result of having been a victim of qualifying criminal activity;
- The alien must be in possession of information about the criminal activity of which he or she has been a victim;
- The alien must be of assistance to a Federal, State, or local law enforcement official or prosecutor, a Federal or State judge, the Department of Homeland Security (DHS), or other Federal, State, or local authority investigating or prosecuting criminal activity; and
- The criminal activity must have violated U.S. law or occurred in the United States (including Indian country and military installations) or the territories and possessions of the United States.⁶

Statute defines “qualifying criminal activity” to be: “activity involving one or more of the following or any similar activity in violation of Federal, State, or local criminal law: Rape;

⁴ INA § 103(g)(2).

⁵ See *Victims of Trafficking and Violence Protection Act of 2000*, div. B, *Violence Against Women Act of 2000*, tit. V, *Battered Immigrant Women Protection Act of 2000*, Pub. L. 106-386, sec. 1513, 114 Stat. 1464, 1533-37 (2000), amended by *Violence Against Women and Department of Justice Reauthorization Act of 2005* (VAWA 2005), tit. VIII, Pub. L. 109-162, 119 Stat. 2960 (2006), amended by *Violence Against Women and Department of Justice Reauthorization Act – Technical Corrections*, Pub. L. 109-271, 120 Stat. 750 (2006).

⁶ INA § 101(a)(15)(U)(i).

torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes[.]”⁷

Most importantly, to be eligible for U nonimmigrant status, the alien must be “helpful” or “likely to be helpful” to a “Federal, State, or local law enforcement official.”⁸ To satisfy this necessary condition, the alien must include a certification, signed by the investigating or prosecuting official, that attests to this helpfulness in the investigation or prosecution of criminal activity in their application⁹

Once an alien has been granted U nonimmigrant status, U visa holders are work authorized incident to status, and their status extends for up to four years.¹⁰ After this period, U visa holders can apply to adjust their status to lawful permanent residents.¹¹

Congress also capped the annual issuance of U nonimmigrant status to 10,000 principal aliens per fiscal year (FY). This cap does not include derivative beneficiaries, or aliens eligible based on certain familial relationships to the initial petitioners.¹² If the alien petitioner is under 21 years of age, the petitioner’s spouse, children, unmarried siblings under 18 years of age, and the victim’s parents may qualify for U nonimmigrant status.¹³ If the alien petitioner is 21 years of age or older, his or her spouse and children may also qualify for U nonimmigrant status.¹⁴

This petition for rulemaking is submitted in accordance with 5 U.S.C. § 553(e) (“Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.”) and the process set forth for such petitions under 6 C.F.R. Part 3.

III. Reasons for Amending 8 C.F.R. § 214.14, Governing the U Nonimmigrant Classification Eligibility and Application Process

DHS must amend 8 C.F.R. § 214.14 to support the integrity of the U nonimmigrant visa program. Current rules and USCIS policies have failed to ensure that the program fulfills its statutory purpose and have allowed fraud to perpetuate throughout the program.

Moreover, since Congress created the U classification, some states have passed legislation that undermines law enforcement discretion in certifying a petitioner’s claim that they are bona fide

⁷ *Id.*, (iii).

⁸ INA § 101(a)(15)(U)(i)(III).

⁹ INA § 214(p)(1).

¹⁰ INA §§ 214(p)(3)(B), (p)(6).

¹¹ INA § 245(m).

¹² *See* INA § 214(p)(2).

¹³ INA § 101(a)(15)(U)(ii)(I).

¹⁴ INA § 101(a)(15)(U)(ii)(II).

victims of qualifying crimes and are helpful or are likely to be helpful in the crime’s investigation or prosecution. As a result, USCIS has likely granted the numerically limited U visa classification to aliens who do not meet the statutory criteria. Altogether, these factors have ballooned the U visa waitlist and significantly increased adjudication times for *bona fide* victims.

a. The U nonimmigrant visa program is susceptible to fraud by petitioners and accomplices.

The U nonimmigrant visa program was created to encourage noncitizen victims of serious crimes to assist law enforcement and to remove immigration-related deterrence factors for victims to report such crimes. However, multiple government reports and investigations have found that the program is vulnerable to fraud, including schemes involving petitioners, attorneys, and accomplices who fabricate or manipulate criminal incidents to obtain immigration benefits.

In January 2022, the Department of Homeland Security Office of Inspector General (DHS OIG) published a comprehensive audit of the U visa program titled *USCIS’ U Visa Program Is Not Managed Effectively and Is Susceptible to Fraud*. The OIG found that the program had significant vulnerabilities to fraud and that USCIS had failed to adequately address those risks. Notably, DHS OIG discovered that USCIS has approved U visa petitions with “forged, unauthorized, altered, or suspicious law enforcement certifications,” with at least eight percent of certifications selected for the audit determined to be forged or altered.¹⁵

One of the most significant problems has been the emergence of schemes to stage fake crimes for the purpose of fraudulently qualifying for a U visa. Federal prosecutors have charged and convicted participants in schemes to manufacture criminal events, such as gas station or convenience store robberies, solely to obtain U visas. For example, in May 2025, an alien pleaded guilty in federal court for his role in a U visa fraud conspiracy in which he and a co-conspirator staged at least 18 armed robberies so that the purported victims could claim qualifying victim status on U visa petitions.¹⁶

In July 2025, federal authorities indicted five individuals, including multiple current and former Louisiana law enforcement chiefs and a local business owner, on charges including conspiracy to commit visa fraud, bribery, and mail fraud. Prosecutors alleged that the defendants authored and certified false police reports documenting armed robberies that never occurred so that the aliens could obtain U visas.¹⁷

These staged crimes are not without risk; one of the fake robbers in a faux U visa-inspired hold-up in Houston was shot and killed by a man who witnessed the “robbery” and believed he was

¹⁵ U.S. Dep’t of Homeland Security, Off. of Inspector Gen., *USCIS’ U Visa Program Is Not Managed Effectively and Is Susceptible to Fraud (REDACTED)* (Jan. 6, 2022).

¹⁶ U.S. Citizenship and Immigration Servs., *Indian National Sentenced for Visa Fraud and Conspiracy* (Aug. 22, 2025).

¹⁷ U.S. Citizenship and Immigration Servs., *USCIS Uncovers U Visa Fraud Scheme by Corrupt Law Enforcement, Leading to Federal Indictments* (Jul. 17, 2025).

disrupting an actual crime. Police and news media reporters later identified several individuals who had applied for U visas after claiming to have been robbed by the man who was killed.¹⁸

In another disturbing case, a woman was convicted in Minnesota in 2020 for her role in a U visa scheme, directing several other women to file false police reports alleging robberies and assault, and then using a box-cutter to cut the women to support their allegations.¹⁹

The proliferation of fraudulent and non-meritorious U visa filings directly harms *bona fide* victims by overwhelming a program constrained by a numerical cap and limited adjudicatory resources. Congress limited the number of principal U visas to 10,000 per fiscal year,²⁰ yet hundreds of thousands of petitions are now pending, many of which, according to government oversight, are based on closed cases, forged or questionable certifications, or otherwise lack a meaningful law enforcement nexus.²¹ As a result, genuine victims who have suffered serious crimes and are actively assisting law enforcement face multi-year and often decade-long delays before receiving a final adjudication on their petition. Visas that could go to these petitioners are sometimes awarded, first, to aliens who have committed fraud.

Fraudulent filings thus operate as a queue-jumping mechanism that diverts limited visas and adjudicatory resources away from *bona fide* victims, dilutes the incentive structure Congress created to encourage timely cooperation, and erodes trust in the program among law enforcement agencies whose participation is essential to its functioning. In this way, unchecked fraud not only undermines program integrity but affirmatively impairs access to relief for the very victims the statute was designed to serve.

b. Some state laws have removed law enforcement discretion to certify an alien’s status as helpful or likely to be helpful victim of a qualifying crime, which has perpetuated fraud and allowed aliens who do not meet the statute’s eligibility criteria to nevertheless receive immigration benefits under the program.

To obtain a U nonimmigrant visa, petitioners are required to obtain a law enforcement certification as a threshold evidentiary component of eligibility. The certification is executed on Form I-918, Supplement B, by a qualifying certifying official from a federal, state, local, tribal, or territorial law enforcement agency, prosecutor’s office, judge, or other authority with responsibility for the investigation or prosecution of a qualifying crime. By signing the certification, the law enforcement official attests that the petitioner is a victim of a statutorily enumerated crime, possesses information concerning that criminal activity, and “has been, is being, or is likely to be helpful” in the detection, investigation, prosecution, conviction or

¹⁸ Luke Jones, ABC 13 Eyewitness News, *Indian immigrant denies staging robbery to obtain U-visa*, April 6, 2024.

¹⁹ U.S. Dep’t of Justice, *Woman Orchestrated Scheme to Obtain U Visas, Charged with Visa Fraud* (Feb. 3, 2020).

²⁰ INA § 214(p)(2).

²¹ See, e.g., Vaughan, Jessica, Center for Immigration Studies, *The U Visa Program, Rampant fraud and abuse undermine integrity, burden policy agencies, and slow benefits for qualified crime victims* (Jan. 14, 2026).

sentencing of the offense. The certification does not confer status or bind USCIS, but it serves as a mandatory evidentiary prerequisite that USCIS evaluates along with the U visa petition (Form I-918) and supporting documentation.²²

Some states, including California, Colorado, Connecticut, Illinois, Nevada, New York, Oregon, and Utah, however, have passed laws that require law enforcement to assume that a request for certification is valid rather than allow the law enforcement agencies to use their discretion as to whether they should sign a certification. Some also impose deadlines, usually 30-90 days (or less, if the petitioner is in removal proceedings), to sign a Supplement B certification.²³ These deadlines may result in certification of applications for petitioners who later decide not to be helpful or, in the case of those in proceedings, may end up stalling or preventing the removal of an alien who otherwise has no path to legal status.

Some state laws stipulate that LEAs can and should issue certifications even if no charges were or will be filed in the case, or the case will not be investigated or prosecuted; direct law enforcement to adopt a presumption that the petitioner will be helpful in any investigation or prosecution; and require law enforcement to sign the certification request even if the case originates in a location outside of the law enforcement agency's jurisdiction.²⁴

The state of Illinois, for example, has taken a particularly aggressive approach to ensuring that state police agencies approve U visa certification requests, including giving the state attorney general investigative and enforcement authorities to ensure compliance. According to Illinois Attorney General Kwame Raoul, Illinois law enforcement agencies must provide U visa certifications to requestors unless the officer cannot determine if a qualifying crime occurred, cannot determine if the requestor is the victim of such crime, or when the crime occurred out of the agency's jurisdiction. Agencies are required to assume that the claimed victim is or will be helpful in investigating/prosecuting the crime and (contrary to USCIS guidance) must fill out, sign, and return the certification form for the alien to submit with their petition to USCIS, even if the agency determines that the alien has not been helpful. In addition, the certifying agencies typically must process the request within 90 days, and consider appeals to any denials, even without new information.²⁵

These laws are designed to remove barriers to law enforcement certifications but directly conflict with Congress's reasoning to require the certification in the first place: to provide a meaningful filter for *bona fide* cases. At worst, they facilitate fraud in the U nonimmigrant visa program by allowing petitioners who would not be eligible for a U visa because they are not considered to be

²² See 8 C.F.R. § 214.14.

²³ See Vaughan, Jessica, Center for Immigration Studies, *The U Visa Program, Rampant fraud and abuse undermine integrity, burden policy agencies, and slow benefits for qualified crime victims* (Jan. 14, 2026).

²⁴ *Id.*

²⁵ *Illinois TRUST Act*, 5 ILC 805 (2017); Ltr. from Raoul, Kwame, Attorney General to Evans, Williams, Chief of Police for Joliet Police Dep't and Beatty, Beth, City Manager for the City of Joliet Re: Findings in VOICES Act Investigation of Joliet Police Department (Aug. 1, 2024).

helpful or likely to be helpful by law enforcement nevertheless be certified that they are in fact helpful.²⁶

Moreover, the enactment of these state laws directly correlates with the increase of filings for U visa petitions. A 2020 internal USCIS report found that a disproportionate number (35 percent) of U visa petitions up to that point had been filed in California. The number filing in California is five times higher than the number filed in Texas and Florida (7 percent and 5 percent respectively), which also have large populations of aliens lacking lawful immigration statuses.²⁷

Current DHS regulations, however, provide little guidance to immigration officers regarding how to identify cases in which a petitioner is helpful or will likely be helpful in the prosecution of a qualifying crime and weed out petitions with “rubber-stamped” certifications. As a result, USCIS has granted U nonimmigrant classification to aliens who are not eligible under the statutory scheme and has drastically increased wait times for *bona fide* victims.

c. The program has not been implemented in a manner that facilitates law enforcement investigations or prosecutions, as Congress intended.

A primary purpose in creating the U nonimmigrant visa program was to facilitate law enforcement’s efforts to investigate and prosecute crimes. The statutory scheme conditions eligibility on a petitioner’s actual or prospective helpfulness to law enforcement, reflecting Congress’s judgment that immigration relief should be directly tied to concrete cooperation outcomes.

Current USCIS policy, however, has severed that statutory nexus. Under current rules, the U visa program does not meaningfully facilitate investigations or prosecutions and, in many cases, provides immigration benefits without advancing, and sometimes without any possibility of advancing, law enforcement objectives.²⁸

DHS OIG reported in its June 2022 report that 66 percent of petitions it randomly selected in its audit were based on closed criminal cases, meaning that the petitioner could not realistically be helpful or provide actual assistance to law enforcement, as required by statute. By adjudicating and approving petitions in the absence of any realistic law enforcement need, current policy and regulations allow immigration benefits to flow even where the statutory purpose cannot be fulfilled.²⁹

Moreover, USCIS does not track whether U visa certifications result in arrests, charges, prosecutions, or convictions, nor does USCIS require certifying law enforcement agencies to follow up on need for assistance from petitioners if years pass after the certification is submitted.

²⁶ INA § 214(p)(6).

²⁷ U.S. Citizenship and Immigration Servs., U Visa Demographics (Mar. 2020).

²⁸ See U.S. Dep’t of Homeland Security, Off. of Inspector Gen., *USCIS’ U Visa Program Is Not Managed Effectively and Is Susceptible to Fraud (REDACTED)* (Jan. 6, 2022).

²⁹ *Id.*

As a result, USCIS cannot demonstrate that its U visa policies further the statutory objectives the program was created to serve.³⁰ Instead, USCIS policy, in effect, focuses primarily on a petitioner's status as a victim of a qualifying crime, which is just one of a number of eligibility requirements that must be satisfied to obtain a U visa (discussed above).

While many law enforcement agencies that are familiar with U visas recognize the potential value of the program in certain circumstances, such as cases in which a victim of a serious crime is reluctant to cooperate with authorities and this hampers an investigation, some law enforcement agencies have indicated that they still struggle to balance the benefits of participating appropriately with the need to avoid facilitating fraudulent or frivolous applications.³¹

As DHS OIG's report noted, a significant number of police agencies believe that the U visa program causes them more problems than it helps in addressing crime. Some worry that if they fail to thoroughly screen requests and if they show openness to certifying cases, their agencies might become targets for frivolous filers and litigation. Most importantly, DHS OIG reported that a majority of surveyed law enforcement agencies stated that the U visa program did not improve their ability to investigate or prosecute crimes but rather added administrative burdens to their operations.³²

Despite these findings, USCIS policy provides deferred action and employment authorization to U visa petitioners solely based on filing and *prima facie* eligibility, not the basis of demonstrated or ongoing cooperation.³³ This policy undermines the statute's incentive structure. Currently, the program incentivizes filing as an end, without encouraging timely, meaningful cooperation with law enforcement.

Rather than functioning as a proactive investigative tool, the program often places law enforcement agencies in the position of certifying historical victimization without receiving corresponding cooperation benefits. This dynamic further underscores that USCIS policy prioritizes benefit conferral over operational law enforcement needs.

d. Current policies allow petitioners who apply to wait in the queue for decades without background checks or status updates.

The number of petitions for U visas USCIS receives now greatly outnumbers the number of visas available per year. As a result, the U nonimmigrant visa program is overprescribed, and petitioners can wait for decades for a final adjudication of their petition. Current policies, however, allow these petitioners to receive immigration benefits (lawful presence, deferred

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ U.S. Citizenship and Immigration Servs., *National Engagement – U Visa and Bona Fide Determination Process – Frequently Asked Questions* (Oct. 2022).

action, and work authorization) while they wait, creating a strong incentive for aliens who lack lawful immigration statuses to file fraudulent or frivolous petitions.

In response to demands from advocates for U visa petitioners about the several-year wait for initial adjudication and receipt of benefits, in June 2021 the Biden administration adopted a new procedure to enable petitioners to obtain a work permit earlier in the process. Under this procedure, USCIS conducts a “*bona fide* determination”, after which the agency may issue a work permit and deferred action (protection from deportation). While the official definition of “*bona fide*” is “made in good faith; without fraud or deceit”, USCIS has defined “*bona fide*” here as a completed petition and clearing initial background checks (meaning no serious criminal convictions or associations with terrorism).² According to practitioners, U visa petitioners now can receive a work permit within one to three years after filing, and before any review to determine if there has been fraud or deceit in the application.

U visa applications have shot up since early 2000, with more than 400,000 petitions pending as of June 2025, even though Congress set an annual cap of 10,000 issuances.³⁴ A 2020 internal USCIS report indicated that only five percent of U visa petitioners reported having a lawful immigration status at the time of application.³⁵ Of these, 79 percent reported never having any lawful immigration status and 14 percent reported to have overstayed their visa.³⁶

Additionally, nearly 35 percent of those who filed a petition between 2012 and 2018 had a previous arrest for a criminal offense or an immigration-related civil offense, according to the internal USCIS study.³⁷ Some approved U visa recipients had previously committed immigration fraud (ten percent) or re-entered illegally after removal (eight percent), which are both serious immigration and criminal violations.³⁸ Six percent of those approved for the U visa had been ordered removed at some point before.³⁹

The rising number of applications relative to the limited number of visas that can be approved in a year has caused the size of the waiting list to balloon. This means that aliens can file a petition and wait years before it is reviewed. As the DHS OIG report noted at the time, it took about four years for a petition to undergo the initial adjudication.⁴⁰ If approved, the case would be eligible for placement on the waiting list and issuance of an employment authorization document. Final review and visa issuance occurs when the visa becomes available within the statutory numerical

³⁴ U.S. Citizenship and Immigration Servs., *Immigration and Citizenship Data, U Visa Applications, Received and Pending Cases* (last visited Feb. 2026).

³⁵ U.S. Citizenship and Immigration Servs., *U Visa Demographics* (Mar. 2020).

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ U.S. Dep’t of Homeland Security, Off. of Inspector Gen., *USCIS’ U Visa Program Is Not Managed Effectively and Is Susceptible to Fraud (REDACTED)* (Jan. 6, 2022).

limits. With more than 250,000 cases pending, the total waiting period for visa issuance is now more than 20 years, assuming most of the pending cases are approved.⁴¹

IV. Explanation of Proposed Rule

The legislative history of the U nonimmigrant visa statutes shows a clear Congressional intent to limit protection to aliens who are bona fide victims of certain crimes and are willing and able to facilitate criminal investigations and prosecutions against their abusers.

The combination of documented forged certifications, internal findings of adjudicated applications based on non-investigated cases, and high-profile criminal prosecutions demonstrates that fraud by petitioners and accomplices has emerged as a significant vulnerability in the U visa program. These abuses undermine the statutory purpose of protecting real victims and assisting law enforcement, while eroding public confidence in the integrity of the immigration system.

Additionally, USCIS policy, including the creation of “interim relief” and a deferred action program for petitioners with “*bona fide*” claims, and the creation of a waitlist have caused the program to become overprescribed beyond Congress’s limited visa allocation. This overprescription has itself created incentives for fraudulent filings and have caused petitioners with meritorious applications to wait numerous years, and in some cases decades, for an adjudication on their Form I-918. Accordingly, CIS proposes that DHS adopt regulatory prioritization criteria favoring petitions associated with active investigations or prosecutions. This would ensure that limited visa numbers and adjudicatory resources are directed toward cases that best advance congressional objectives.

To accomplish this, DHS should amend 8 C.F.R. § 214.14 to require adjudicators to determine whether a U visa petition is connected to an *active or reasonably anticipated* investigation or prosecution, absent exceptional circumstances. Petitions based solely on closed cases should be denied unless the certifying agency affirmatively explains why the petitioner’s cooperation remains necessary. This requirement would align adjudications with the statutory helpfulness criterion and prevent approvals where cooperation is impossible as a matter of fact.

DHS should also establish a regulatory validity period for Form I-918, Supplement B certifications (e.g., 18 months), after which certifications must be revalidated if adjudication has not occurred. This would ensure that USCIS decisions rely on current law enforcement needs rather than stale attestations disconnected from ongoing investigative realities.

DHS should also repeal 8 C.F.R. § 214.14(c)(6), governing the issuance of immigration benefits to petitioners with pending, but not adjudicated, applications and replace the definition of “U interim relief” at 8 C.F.R. § 214.14(a)(13) with a definition of “Helpful or likely to be helpful.”

⁴¹ See Vaughan, Jessica, Center for Immigration Studies, *The U Visa Program, Rampant fraud and abuse undermine integrity, burden policy agencies, and slow benefits for qualified crime victims* (Jan. 14, 2026).

DHS should amend § 214.14(a)(12), (13) and (b)(4) to clarify that a certifying agency must have jurisdiction over the investigation or prosecution.

DHS should also revise 8 C.F.R. § 214.14(c)(1)(i) to authorize an ICE prosecutor to continue, rather than terminate, section 240 removal, exclusion, or deportation proceedings if the alien has a pending Form I-918 filed with USCIS. This amendment will allow ICE to promptly resume a removal, exclusion, or deportation case if USCIS denies the alien's Form I-918.

CIS also strongly recommends that DHS include an interview requirement for all U nonimmigrant visa petitioners to confirm the veracity of the statements and information provided in an application. DHS should also require USCIS officers to notify a certifying LEA and confirm that the certifying agency considers the petitioner to have been helpful, is helpful, or is likely to be helpful in the investigation or prosecution of the qualifying crime. Both provisions will help DHS deter fraud in the program.

DHS should also require a USCIS officer to refer any petition denied on the basis of fraud to the Fraud Detection and National Security Directorate (FDNS) or any successor division, annotate the alien's file with information related to the negative credibility determination, and refer the matter for criminal investigation or prosecution to the U.S. Department of Justice, certifying LEA, and ICE. USCIS should also issue a Notice to Appear to any petitioner whose Form I-918 is denied on the basis of fraud.

DHS should also revoke 8 C.F.R. § 214(d)(2), which creates a waitlist for petitioners who are not granted U-1 nonimmigrant status because of the numerical limit established by Congress and (d)(3) which prohibits petitioners from accruing unlawful presence while their application is pending. Both provisions undermine the statutory scheme Congress created to limit U nonimmigrant visa issuances and deter illegal immigration to the United States. Statute does not require USCIS to implement a waitlist.

V. Proposed Regulatory Text

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1188, 1221, 1281, 1282, 1301-1305, 1357, and 1372; sec. 643, Pub. L. 104-208, 110 Stat. 3009-708; Pub. L. 106-386, 114 Stat. 1477-1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2; Pub. L. 115-218, 132 Stat. 1547 (48 U.S.C. 1806).
2. Amend § 214.14 by revising Paragraphs (12) and (13) of § 214.14(a), revising Paragraph (4) of § 214.14(b), revising Paragraphs (1)(i), (4), (5), and (6) of § 214.14(c), removing Paragraph (7) of § 214.14(c), and removing Paragraphs (2) and (3) § 214.14(d) to read as follows:

(a) ***

(12) U nonimmigrant status certification means Form I-918, Supplement B, “U Nonimmigrant Status Certification,” which confirms that the petitioner has been helpful, is being helpful, or is likely to be helpful to the certifying agency in the investigation or prosecution of the qualifying criminal activity of which he or she is a victim. Such certification shall only be considered valid for 18 months after certification or until underlying criminal case is closed, whichever is soonest. The petitioner must submit a new U nonimmigrant status certification confirming that the certifying agency still considers the petition to have been helpful, is helpful or likely to be helpful in the investigation and prosecution of the qualifying criminal activity if their initial submission is no longer valid.

(13) Helpful or likely to be helpful means that the petitioner possesses credible and reliable information establishing that he or she has knowledge of the details concerning the qualifying criminal activity upon which his or her petition is based, consistent with the requirements set in part (b), section (2) and (3), and the petitioner is able, willing, and available to cooperate with the certifying agency. A petitioner shall not be considered helpful or likely to be helpful if the qualifying criminal activity is not subject to an active investigation or prosecution, if the case has been closed, or if the certifying agency does not have jurisdiction over the active criminal case.

(b) ***

(4) The qualifying criminal activity occurred in the United States (including Indian country and U.S. military installations) or in the territories or possessions of the United States, or violated a U.S. federal law that provides for extraterritorial jurisdiction to prosecute the offense in a U.S. federal court and the certifying agency has jurisdiction to investigate or prosecute the criminal activity.

(c) ***

(1) ***

(i) Petitioners in pending immigration proceedings. An alien who is in removal proceedings under section 240 of the Act, 8 U.S.C § 1229a, or in exclusion or deportation proceedings initiated under former section 236 or 242 of the Act, 8 U.S.C. §§ 1226 and 1252 (as in effect prior to April 1, 1997), and who would like to apply for U nonimmigrant status must file a Form I-918 directly with USCIS. U.S. Immigration and Customs Enforcement (ICE) counsel may agree, as a matter of discretion, to file, at the request of the alien petitioner, a joint motion to continue the

proceedings with the immigration judge or Board of Immigration Appeals, whichever is appropriate, pending an adjudication of the Form I-918 with USCIS.

(2) ***

(3) ***

(4) Evidentiary standards and burden of proof. (i) The burden shall be on the petitioner to demonstrate eligibility for U-1 nonimmigrant status. The petitioner may submit any credible evidence relating to his or her Form I-918 for consideration by USCIS. USCIS shall conduct a de novo review of all evidence submitted in connection with Form I-918 and may investigate any aspect of the petition. Evidence previously submitted for this or other immigration benefit or relief may be used by USCIS in evaluating the eligibility of a petitioner for U-1 nonimmigrant status. However, USCIS will not be bound by its previous factual determinations. USCIS will determine, in its sole discretion, the evidentiary value of previously or concurrently submitted evidence, including Form I-918, Supplement B, "U Nonimmigrant Status Certification."

(ii) *Interview Requirement.* The Service shall interview all petitioners to confirm the veracity of the information and evidence supporting a petition prior to making a decision approving or denying Form I-918. The purpose of the interview shall be to verify all relevant and useful information bearing on the applicant's eligibility for U nonimmigrant classification. The immigration officer shall have authority to administer oaths, verify the identity of the applicant (including through the use of electronic means), verify the identity of any interpreter, present evidence, receive evidence, and question the applicant and any witnesses.

(iii) *Confirmation of LEA certification.* The Service shall, before making a final adjudication on a U visa petition, contact the certifying agency to confirm that the LEA still considers the petitioner helpful or likely to be helpful in the investigation or prosecution of the qualifying crime. USCIS shall allow the certifying agency to withdraw a certification if the certifying agency no longer requires the help of the petitioner to investigate or prosecute the criminal activity, and USCIS shall inform the certifying agency of the option to withdraw.

(5) ***

(i)***

(ii) *Denial of Form I-918.* USCIS will provide written notification to the petitioner of the reasons for the denial. The petitioner may appeal a denial of Form I-918 to the Administrative Appeals Office (AAO) in accordance with the provisions of 8 CFR 103.3. USCIS shall issue a charging document or Notice to Appear to a petitioner if, after issuance of a Form I-918 denial, does not have a lawful immigration status and is deportable under 8 U.S.C. section 1227. Upon USCIS's final denial of a petition for a petitioner who was in removal proceedings that were continued pursuant to 8 CFR 214.14(c)(1).

(iii) *Denial based on fraud.* In addition to the procedures required by paragraph (5)(ii), an officer shall refer any petition denied on the basis of fraud to the Fraud Detection and National Security Directorate (FDNS) or any successor division, annotate the alien's file with information related to the negative credibility determination, and refer the matter for criminal investigation or prosecution to the U.S. Department of Justice, certifying LEA, and ICE. The Service shall issue a Notice to Appear to all petitioners denied on the basis of fraud.

(6) *Employment authorization.* An alien granted U-1 nonimmigrant status is employment authorized incident to status. USCIS automatically will issue an initial Employment Authorization Document (EAD) to such aliens who are in the United States. For principal aliens who applied from outside the United States, the initial EAD will not be issued until the petitioner has been admitted to the United States in U nonimmigrant status. After admission, the alien may receive an initial EAD, upon request and submission of a copy of his or her Form I-94, "Arrival-Departure Record," to the USCIS office having jurisdiction over the adjudication of petitions for U nonimmigrant status. No additional fee is required. An alien granted U-1 nonimmigrant status seeking to renew his or her expiring EAD or replace an EAD that was lost, stolen, or destroyed, must file Form I-765 in accordance with the instructions to the form.

(d) In accordance with section 214(p)(2) of the Act, 8 U.S.C. § 1184(p)(2), the total number of aliens who may be issued a U-1 nonimmigrant visa or granted U-1 nonimmigrant status may not exceed 10,000 in any fiscal year.

(e) ***

(f) ***

(g) ***

VI. Nonregulatory Proposals

In addition to making the regulatory changes proposed in section V of this letter, CIS strongly recommends that DHS create an electronic filing system for U nonimmigrant visa certifications. Electronic filing is one reform that has been repeatedly requested by LEAs. In addition to allowing LEAs to file certifications electronically, the electronic system should allow certifying agencies to review certifications purportedly certified by them to confirm the certification has not been altered or otherwise fraudulently submitted. Finally, the system should allow certifying agencies to easily withdraw certifications for any application that is based on an investigation or prosecution that is no longer active or closed, if the applicant is refusing to help in the investigation or prosecution, or if the applicant is otherwise determined to not be helpful or not likely to be helpful in the investigation or prosecution of the qualifying crime.

An electronic system will not only improve efficiency in application filing but will also make fraud easier to detect. The function will also remove some cases from USCIS's docket that do not meet statutory requirements without requiring immigration officers to take additional actions, conserving administrative resources.

USCIS also should implement an enhanced review process for applications certified in jurisdictions that have certification laws that conflict with federal rules, such as from Illinois, or contain indications of fraud. If USCIS identifies a jurisdiction with a preempted certification law or policy, USCIS can require supervisory or FDNS review of potential approvals from these jurisdictions to ensure that a final decision is only made after USCIS confirms compliance with the statutory requirements. This will ensure that *bona fide* victims from these jurisdictions are still able to obtain immigration benefits from this program while reducing the likelihood that USCIS will grant numerically limited visas to unqualified applicants.

Importantly, CIS strongly suggests that USCIS end its policy of granting interim benefits, including deferred action and employment authorization, to U visa petitioners who have not had their claims adjudicated and undergone background checks. USCIS can maintain officer discretion to provide employment authorization in exceptional cases without guaranteeing that the submission of an application will, alone, allow a petitioner to obtain work authorization and protect the petitioner from removal. Work authorization eligibility, in combination with long U visa application processing times, creates a strong incentive for fraudulent or frivolous filings.

Finally, USCIS should create a LEA engagement program to help train LEAs on how the U nonimmigrant visa program operates and to solicit information from LEAs on how the program can be improved to better serve its statutory purposes. LEAs who understand the process can reduce their own litigation risks and may be more willing to spend their finite administrative resources on certifying applications for *bona fide* victims.

VII. Conclusion

To reduce fraud in the U nonimmigrant visa program, increase agency efficiencies, and ensure the program is fulfilling its statutory purpose, CIS respectfully recommends that DHS amend 8 C.F.R. 214.14 to:

- Require adjudicators to determine whether a U visa petition is connected to an *active or reasonably anticipated* investigation or prosecution, absent exceptional circumstances;
- Establish a regulatory validity period for Form I-918, Supplement B certifications (e.g., 18 months), after which certifications must be revalidated if adjudication has not occurred;
- Define “helpful or likely to be helpful” to, consistently with other statutory requirements, exclude cases in which the qualifying criminal activity is not subject to an active investigation or prosecution, cases that are closed, or cases in which the certifying agency does not have jurisdiction over the criminal case;
- Repeal provisions authorizing the issuance of “interim benefits,” including deferred action and work authorization, to petitioners who have not been established a viable claim or have undergone sufficient background checks;
- Require U nonimmigrant visa petitioners to be interviewed to confirm the veracity of the evidence and information provided in their application;
- Clarify that a certifying agency must have jurisdiction over the investigation or prosecution of the qualifying crime;

- Authorize ICE prosecutors to pause, rather than terminate, section 240 removal, exclusion, or deportation proceedings if an alien has a pending Form I-918 filed with USCIS;
- Require a USCIS officer to refer any petition denied on the basis of fraud to the Fraud Detection and National Security Directorate (FDNS) or any successor division, annotate the alien's file with information related to the negative credibility determination, and refer the matter for criminal investigation or prosecution to the U.S. Department of Justice, certifying LEA, and ICE;
- Require USCIS to issue a Notice to Appear to any petitioner whose Form I-918 is denied on the basis of fraud;
- End USCIS's policy of maintaining a waitlist.

In addition to these regulatory changes, CIS also suggests that USCIS:

- Create an electronic filing system for U nonimmigrant visa certifications, to allow LEAs to file, access, and withdraw U nonimmigrant visa certifications, when appropriate;
- Implement an enhanced review process for applications certified in jurisdictions that have certification laws that conflict with federal law;
- End its policy of granting deferred action and work authorization solely on the basis of filing a complete U nonimmigrant visa application.
- Create a LEA engagement program to help train LEAs on how the U nonimmigrant visa program operates and to solicit information from LEAs on how the program can be improved to better serve its statutory purpose of facilitating investigations and prosecutions of certain crimes.

Respectfully submitted,

Elizabeth Jacobs, Director of Regulatory Affairs and Policy

Jessica Vaughan, Director of Policy Studies