

21 February 2014

Stefanie K. Davis
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Legal Services Corporation (LSC)
3333 K Street NW
Washington, DC 20007
(via electronic submission to Regulations.gov)

Re: Further Notice of Proposed Rulemaking as to 45 CFR § 1626.4(c), Restrictions on
Legal Assistance to Aliens

Dear Assistant General Counsel Davis:

I am writing to offer my comments on the LSC's proposed rule regarding some non-citizens' eligibility for legal assistance. I am especially grateful for the opportunity to comment on this issue because I am a law student who is very interested in immigration and human rights issues. I have assisted survivors of domestic violence as they sought protection in the United States, and I am familiar with the dangers facing victims of human trafficking.

While I believe that the LSC's proposed rulemaking is a progressive step, I do not believe these changes go far enough. For the reasons discussed below, 45 CFR § 1626.4(c)(2)(ii) should expressly extend LSC's services to non-citizens who are present in the United States because they are assisting with an investigation or adjudication regarding an act or perpetrator of trafficking. Additionally, the LSC should apply the term "in the United States" to the location of the victim of the crime, even if the crime occurred outside of the United States.

45 CFR § 1626.4(c)(2)(ii) should include language extending benefits to victims of severe human trafficking who are present in the United States to participate in investigations or adjudications related to an act or perpetrator of trafficking.

The current language of 45 CFR § 1626.4(c)(2)(ii) would require victims of severe human trafficking to be present in the United States on account of such trafficking to be eligible for assistance from the LSC. Some may interpret this regulation as requiring that victims must be trafficked into the United States in order to be eligible to receive assistance from the LSC. However, 8 U.S.C. § 1101(a)(15)(T)(i)(II) states that victims of severe forms of trafficking may qualify for a T visa if they are present in the United States to participate in "investigative or judicial processes associated with an act or a perpetrator of trafficking." To ensure that all people eligible for a T visa are also eligible to receive assistance from the LSC, 45 CFR § 1626.4(c)(2)(ii) should be changed to either reference 8 U.S.C. 1101(a)(15)(T) or to specifically state that victims of severe forms of human trafficking who are present in the United States to assist in the aforementioned investigations and adjudications may receive assistance from the LSC.

The term “in the United States” applies to victims of the qualifying crimes, regardless of whether the crime itself occurred in the United States.

As the LSC notes in its FNPRM, Congress directed the agency to “expand benefits and services to victims of severe forms of trafficking in persons in the United States, without regard to the immigration status of such victims.” 22 U.S.C. § 7105(b)(1)(B). In 22 U.S.C. § 7105(b)(1)(A), Congress clearly noted that “an alien who is a victim of a severe form of trafficking in persons . . . shall be eligible for benefits and services”. Sections 7105(b)(1)(C)(i)-(iii) defines ‘victim of severe form of trafficking in persons,’ Notably, these sections do not require that the trafficking occur in the United States. Indeed, 8 U.S.C. § 1101(a)(15)(T)(i)(II) notes that a person may be eligible for a T visa if they have been allowed in the United States to help with the investigation or adjudication of an act or perpetrator of trafficking. This section implies that a victim may be eligible for benefits even if they have suffered trafficking abroad.

Moreover, 8 U.S.C. § 1101(a)(15)(U)(i)(IV) notes that a non-citizen may be eligible for a U visa if they are a victim of criminal activity that “violated the laws of the United States or occurred in the United States”. This indicates that Congress intended to extend benefits to victims of qualifying criminal activity even if the crimes were committed outside of the United States.

Taken together, 8 U.S.C. 1101(a)(15)(T) and 8 U.S.C. 1101(a)(15)(U) show that Congress meant to extend benefits to certain non-citizens who have suffered qualifying abuses abroad. Thus, the term “in the United States” applies to the location of the victim of the crime, even if the crime occurred outside of the United States.

Thank you for your time in considering these comments. I appreciate the work that the LSC has put into updating these regulations and I support the direction that the LSC is taking with these changes.

Sincerely,

M. Odessa Powers