



Freedom Network USA

February 15, 2019

Administration for Children and Families
Office of Planning Research and Evaluation
330 C Street SW
Washington DC 20201
infocollection@acf.hhs.gov

RE: Trafficking Victim Assistance Program Data Collection, OMB No.: 0970-0467

ACF Reports Clearance Officer:

The Freedom Network USA (FNUSA) commends the HHS Office on Trafficking in Persons for seeking to improve the Trafficking Victim Assistance Program (TVAP). The Department's commitment to ensuring foreign-born survivors of human trafficking are successfully served and to meeting their needs in order to process their trauma and heal from the abuse they have suffered is critical. We understand that receiving information from the TVAP grantee is necessary to meet this goal and believe it is equally as critical to obtain feedback from service providers who work directly with survivors and complete all required paperwork and documentation to remain in compliance with the program.

FNUSA, established in 2001, is a coalition of 68 non-governmental organizations and individuals that provide services to, and advocate for the rights of, trafficking survivors in the United States. Our members include survivors themselves as well as former prosecutors, civil attorneys, criminal attorneys, immigration attorneys, and social service providers who have assisted thousands of trafficking survivors. Together, our members provide services to over 2,000 trafficking survivors each year.¹

We are extremely concerned by the highly detailed information that is being requested across a variety of proposed forms and data collection tools. We do not believe the information being collected is necessary and may, in fact, put clients at grave risk for re-victimization. The FY18 TVAP Funding Opportunity Announcement states that the purpose of the program is to "fund time-limited comprehensive case management services on a per capita basis to foreign national victims of a severe form of trafficking in persons and potential victims of trafficking seeking HHS Certification so they can re-establish their ability to live independently."² We believe the data

¹ Freedom Network USA 2018 Member Report, available at

<https://freedomnetworkusa.org/app/uploads/2018/04/FRN-Member-Report-Digital-FINAL.pdf>.

² US Department of Health and Human Services, Administration for Children and Families, Immediate Office of the Assistant Secretary- Office on Trafficking in Persons, Trafficking Victim Assistance Program- ACF Regions 1, 2, 3, and 4 (HHS-2018-ACF-IOAS-OTIP-ZV-1369), ACF Regions 5, 6, 7, and 8 (HHS-2018-ACF-IOAS-OTIP-ZV-1370), ACF Regions 9 and 10 (HHS-2018-ACF-IOAS-OTIP-ZV-1371)

requested on the proposed forms goes far beyond what the program requires, is irrelevant to the primary objectives of TVAP, and in some cases is likely to compromise victim confidentiality.

Our concerns and recommendations are detailed below, by form. We refer to those organizations that are direct recipients of TVAP funding from OTIP as TVAP grantees. We refer to the service providers who are compensated by the TVAP grantees to work directly with trafficking survivors as TVAP subgrantees or subgrantee service providers.

All Forms

Each form requires a client identifier. We strongly oppose using a client identifier that includes personally identifying information (PII) such as date of birth, client initials, and/or reference to the person's home country. This directly contradicts the confidentiality policies of the grantee and subgrantee agencies. **Therefore, we recommend that TVAP grantees and subgrantees utilize a randomized client identifier system that does not disclose any PII.**

Client Characteristics and Enrollment Form

The purpose of this form should be to ensure that service providers are enrolling clients who are eligible to receive services under TVAP. Per the FOA, persons qualified to receive services are the following:

- A foreign national adult potential victim of a severe form of trafficking who is seeking a Certification Letter from HHS and who is actively pursuing T-nonimmigrant status and/or Continued Presence (CP) issued by DHS;
- A foreign national potential victim of a severe form of trafficking who is under 18 years of age (minor) and is seeking an Eligibility Letter from HHS;
- A foreign national under 18 years of age who has been subjected to a severe form of trafficking; or
- A foreign national victim of a severe form of trafficking who has received HHS certification.

The following **information is unnecessary and inappropriate** for the determination of eligibility:

- Referral Source: Service Delivery System; Referral Source: Informal; Did the referral come from a formal/informal partner within the network: this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **Therefore, these questions should be deleted.**
- Sex; Does the client identify as LGBTQ?: this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **Therefore, these questions should be deleted.**
- Does the victim have a disability?: this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **Therefore, this question should be deleted.**
- Client's County/Parish and State/Territory of origin: this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above, and is potentially PII when combined with other details. Any individual that meets the above

criteria and lives within the US or territories is eligible to receive services. **Therefore, this question should be deleted. Therefore, this question should be deleted.**

- How well does the client speak English?; Does the client speak a language other than English at home?; If yes, what is this language?; this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **Therefore, these questions should be deleted.**
- Current living situation: this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **Therefore, this question should be deleted.**
- Current school enrollment; Last grade completed: this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **Therefore, these questions should be deleted.**
- Is client employed in the legal job sector?; Is client enrolled in job training?; If yes, what is the type of employment?; If no, is the client seeking employment?; this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **Therefore, these questions should be deleted.**
- Client History and Presenting Needs including the lists of Polyvictimization, Other risk factors, and Current systems involvement: this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **Therefore, these questions should be deleted.**
- What needs or services did the client have?; Service providers should only be required to report on whether or not a client *has* needs. Information related to specific needs is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **Therefore, we recommend replacing this question with “Does the individual have one or more of the following needs,” listing out the needs, and requiring the service provider to check *yes* or *no*.**
- What public benefits does the client need?; this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **Therefore, this question should be deleted.**
- Was the client referred to law enforcement?; this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above, and is potentially PII when combined with other details. **Therefore, this question should be deleted.**
- Client relationship to trafficker: this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. Additionally, details about the survivor’s description of the trafficking experience should be discussed only with an attorney or law enforcement to ensure that information is protected in case of a law enforcement investigation. **Therefore, this question should be deleted.**
- Exploitation Industry: this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. Additionally, details about the survivor’s description of the trafficking experience should be discussed only with an attorney or law enforcement to ensure that information is protected in case of a law enforcement investigation. **Therefore, this question should be deleted.**

- If known. Location of the most recent trafficking incident County/Parish, State/Territory, Country: this information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. Additionally, details about the survivor's description of the trafficking experience should be discussed only with an attorney or law enforcement to ensure that information is protected in case of a law enforcement investigation. **Therefore, this question should be deleted.**

Though *some of* this information can be useful for subgrantee service providers to collect and assess to complete a thorough case plan, oversee case management, and ensure quality service provision, it is not information that should be required to be collected nor required to be reported to HHS. It is not relevant to the information needed to determine eligibility for services. **Therefore, we recommend that these questions be removed from any required forms HHS proposes to implement across the TVAP network.**

Furthermore, in the Federal Register Notice, HHS has estimated that it will take service providers approximately .3 hours (18 minutes) to complete this form. This is an unreasonable estimate given the amount of rapport that would need to be built with a survivor before asking specific questions as they relate to their trafficking and trauma history. **Based on our extensive experience, it would take approximately 2-4 hours to complete the form, as proposed. This results in at least 2200 Total Burden Hours, not the 330 projected by HHS.** This includes time needed for interpretation (as the forms are to be used exclusively for foreign nationals, it is likely that many will require interpretation), breaks, and explanation about these concepts and questions.

Additionally, service providers do not now, *and should not be required to*, ask detailed questions related to a client's trauma history and details of their trafficking experience at any point and especially not to ensure program enrollment – it is not relevant. Per the FOA, grantees are required to provide a person-centered response to survivors which “strengthens the voice of the individual, builds resiliency, and fosters recovery.” These practices are *not* trauma-informed or person-centered. Requiring a survivor to discuss their trauma history as a matter of requirement to receive services directly negates this policy which OTIP requires grantees and subgrantees to follow. It is re-traumatizing and could lead to the individual withdrawing completely and not engaging in services that they need. Details of the trafficking experience such as location, type of industry, relationship to the trafficker should only be gathered and recorded as needed by law enforcement officials or attorneys working on the investigation of the trafficking case or representation of the survivor.

Client Service Use and Delivery Form

Again, the purpose of the TVAP program is to help survivors obtain HHS Certification and connect them to all federal benefits in which refugees are eligible. It is the responsibility of the TVAP grantee to ensure their subgrantees are educated on the public benefits and services in which certified survivors are eligible and it is the responsibility of the subgrantee to link the survivor to these benefits and services. **Therefore, instead of requiring the service provider to report on *which* benefits the client was connected to, the question should be replaced with**

Yes/No questions, such as: “Was the client connected to any of the following public benefits during the reporting period?” with a list of benefits as reference. The service provider should only be required to report *yes* or *no*.

TVAP Spending Form

The second tab of this form is irresponsible, unethical, and unnecessary for the stated purposes of the program. Additionally, requiring survivors to choose between releasing personal, sensitive information related to their medical care and *receiving* necessary medical treatment is likely to cause physical, emotional, and financial harm to survivors who either forgo needed care, face discrimination from providers, or pay for care through other means.

This form requires service providers to report only the amount and the broad category, aggregated for all clients, for most types of services (e.g. housing, clothing, transportation, food). It is *only* when funds are used to pay for a medical expense that the client must agree to release the doctor’s name where the treatment was received as well as what type of health screening *and* medical service was received. This requires disclosure to at least 3 entities (the sub-contracted service provider, the TVAP grantee, and OTIP) and an unknown number of individuals. If a survivor does not want this information shared with the TVAP grantee and/or the federal government, the subgrantee cannot pay for the service using program funds. That means a survivor may not be able to receive the medical care that they need. Trafficking victims endure some of the most horrific conditions imaginable. Stripped of their freedom, they are often forced to live in the worst circumstances and routinely subjected to abuse. Once they escape their trafficking situation, we must ensure that they can access all the tools they need to rebuild their lives, including a full range of medical care to address the psychological, physical, emotional, and sexual abuse that they may have suffered. We must also ensure that their privacy is respected at all times, especially in regards to their most private decisions. Restricting this access with invasive policies around data collection is unacceptable, and it is coercive to make a survivor choose between treatment and disclosing personal information.

While there are limitations on what costs may be allowable, those requirements, like all other program compliance issues, should be addressed through contract language and oversight activities. Not by gathering intrusive health care information from survivors of trauma. It is the responsibility of the TVAP grantee to ensure all sub-awardees comply with the allowable and unallowable costs under this program and to monitor agencies on a regular basis. The TVAP grantee is able to audit sub-awardees and ensure funds are responsibly spent. **Therefore, we emphatically recommend that HHS should not require sub-awardees to report *any* client-specific information related to medical services, and that the second tab of this form be deleted.**

Furthermore, in the Federal Register Notice, HHS has estimated that it will take service providers approximately .75 hours (45 minutes) to complete this form. This is an unreasonable estimate given that service providers must take multiple steps to complete this form. First, they must explain to the survivor (using an interpreter where needed) *why* this information is requested and with which agencies it will be shared. Second, they must obtain from the

survivor a specific and limited signed release for each medical visit. Third, the service provider must obtain specific information related to the medical service performed, which may not be specifically known by the client nor legible on the medical bill. Fourth, the service provider must enter this data onto the form for each client served during the month. **Therefore, we estimate that completion of this form as proposed would take at least 2 hours per month, for 6,264 Total Burden Hours annually. More than 32 times HHS' estimate.**

Client Case Closure Form

The TVAP program is time-limited and subgrantees are required to inform the TVAP grantee when a case is closing. The Client Case Closure Form should *only* include the date on which the case is closing and the reason for case closure. The client's employment status and living situation at the time of case closure is neither necessary nor relevant to the purposes of maintaining accurate records of the program. It is also not appropriate for OTIP to know the living situation or employment status of clients at any point during their service provision, and certainly inappropriate for survivors who are no longer receiving services. **Therefore, we recommend that these questions (Employment Status upon Closing, Living Situation upon Case Closing, Did the client receive a referral for continued case management services?) be removed from any required forms HHS proposes to implement across the TVAP network.**

Partnership Development and Expansion: Enrollment Form

The TVAP grantee is responsible for contracting with service providers across the United States and territories who are equipped to serve foreign national victims of human trafficking. It is appropriate for OTIP to require the grantee to report on who these subgrantee service providers are and when they join via a contract and/or terminate their contract. It is *not* appropriate, however, for OTIP to require subgrantees to report on their partners in the community. Neither the Federal Register Notice nor the proposed form clarifies *who* will be required to complete this form. **We recommend that only the TVAP grantee be required to complete this form with reference only to their subgrantee partners.**

Ways to Minimize the Burden of Collection

The collection of *some* information is necessary for HHS to ensure the success of the TVAP program. However, as stated above the goal of the program is to, in sum, help an individual obtain HHS certification, connect them to public benefits, and help them on a pathway to independence. Therefore, the proposed forms must be limited to collection of information that is necessary for HHS to ensure program goals are being met. This will eliminate the need for extensive interviews with clients related to their trauma history and the details of their trafficking experience, it will reduce the amount of hours spent on unnecessary paperwork, and increase the amount of time service providers have to spend engaging with survivors and meeting their complex needs through a trauma-informed, person-centered approach to services. **Amended forms, as described by our recommendations above, would take an average of 2 hours per month to complete per individual enrolled in the program, which is a reasonable burden.**

Freedom Network USA recognizes the important role of HHS in the support of foreign national victims of severe forms of trafficking. We applaud your dedication to ensuring that victims have access to needed services and support as soon as possible to support their safety and healing. We believe that the recommended changes will help to ensure that survivors are supported and their information and privacy is protected.

I can be reached at jean@freedomnetworkusa.org if you have any questions or need any further information or explanation.

Sincerely,

A handwritten signature in black ink that reads "Jean Bruggeman". The signature is written in a cursive style with a long, sweeping underline.

Jean Bruggeman
Executive Director
Freedom Network USA