

October 27, 2023

Brecht Donoghue
Director, OVC Human Trafficking Division
Brecht.Donoghue@usdoj.gov

Via Email

RE: OVC Authority for Grantees to Administer Determination Letters for Credit Repair Applications Under the Debt Bondage Repair Act (DBRA benefits)

Director Donoghue:

Over one year ago, on June 24, 2022, the Consumer Financial Protection Bureau (CFPB) released its final rule on the Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking (DBRA Rule).¹ Since the implementation of this rule, Consumer Reporting Agencies have begun processing applications to remove adverse credit information for survivors of trafficking, but few survivors have accessed this critical relief.

We are a working group of non-governmental organizations and attorneys helping survivors seek DBRA benefits, providing training and technical assistance, and coordinating efforts to implement the DBRA Rule and increase access for survivors. Together, we have identified survivors' lack of trafficking documentation, required as part of an application for DBRA benefits, as the most significant barrier to relief.

The DBRA Rule states that non-governmental organizations can be authorized by Federal, State, or Tribal governmental entities to make determinations for survivors seeking to utilize this remedy. On September 26, 2022, the Office on Trafficking in Persons (OTIP) issued guidance allowing its trafficking grantees to provide trafficking documentation under the DBRA Rule.² This guidance is crucial to expanding the number of survivors who are able to access DBRA benefits. Critically, the guidance clearly "authorizes recipients of grants from the Office on Trafficking in Persons (OTIP) to issue trafficking documentation." Moreover, OTIP issued updated guidance on August 8, 2023, to include recipient feedback as well as updated templates to better address the needs of survivors applying for relief.³

OVC administers the largest pot of federal funding for services for survivors and, by issuing similar guidance, would significantly expand access to DBRA benefits. OVC is named in the DBRA Rule as an agency with grantees in a position to make determinations that individuals are victims of trafficking.⁴ Currently, with

¹ 12 CFR 1022, <https://www.federalregister.gov/documents/2022/06/24/2022-13671/prohibition-on-inclusion-of-adverse-information-in-consumer-reporting-in-cases-of-human-trafficking>

² Administration for Children & Families, Office on Trafficking in Persons, Program Instruction: Prohibition on inclusion of Adverse Information on Consumer Reporting in Cases of Human Trafficking, Document Number: OTIP-PI-22-01, https://www.acf.hhs.gov/sites/default/files/documents/otip/CFPB%20Rule%20Program%20Instruction_Final.pdf.

³ Administration for Children & Families, Office on Trafficking in Persons, Updated Program Instruction: Prohibition on inclusion of Adverse Information on Consumer Reporting in Cases of Human Trafficking, Document Number: OTIP-PI-22-01, https://www.acf.hhs.gov/sites/default/files/documents/otip/Updated%20Aug%202023_CFPB%20Rule%20Program%20Instruction.pdf

⁴ 12 CFR 1022, <https://www.federalregister.gov/documents/2022/06/24/2022-13671/prohibition-on-inclusion-of-adverse-information-in-consumer-reporting-in-cases-of-human-trafficking>

authority only granted to OTIP grantees, there is unequal access to determination letters. OTIP's grantees mostly serve foreign national survivors, while OVC serves significantly more US citizen survivors. The lack of guidance from OVC has led to insufficient access to credit relief for all and a disparity in access for US citizens who are more likely to have adverse credit information related to their trafficking experience, and less likely to have other forms of documentation of their trafficking. Foreign national survivors may have immigration applications or HHS Certification Letters that can serve as trafficking determination documentation. US Citizens, however, do not. It is critical that providers are empowered to provide this documentation to survivors to unlock access to a clear credit report as they work to rebuild their lives.

While extending this authorization to all grantees of the Office of Justice Programs (OJP) is certainly within the scope of the DBRA Rule, OVC's human trafficking program grantees are the most likely to identify human trafficking survivors, understand the impact of trafficking on their credit, and be able to support survivors in accessing this new remedy. We recommend an initial pilot project (of 6 months to 1 year) that extends authorization to OVC's human trafficking grantees and subgrantees. This pilot would be a meaningful step forward in expanding access for survivors. At the start and end of the pilot period, OJP should host a grantee meeting to gather feedback to inform a larger-scale implementation of the authority across OJP.

OVC's human trafficking grantees are already assisting survivors in accessing other forms of relief related to their trafficking experience, either directly or indirectly, through referrals. They assist survivors in accessing crime victims' compensation, state and federal benefits, including the Supplemental Nutrition Assistance Program (SNAP), Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), housing assistance, employment benefits, including unemployment compensation, workers' compensation, and others. Assistance in accessing the DBRA benefits would be no different.

Within our working group (which includes OVC TTA providers CAST, the Identity Theft Resource Center, and Freedom Network USA), we are developing training and technical assistance materials and resources for service providers, survivors, law enforcement, and others. The working group is eager to assist you in formalizing guidance to establish authority to issue trafficking documentation for OVC grantees and to ensure thorough training and technical assistance are provided to grantees. Credit relief is an essential service to survivors that should be easily accessible to as many people as possible. We hope OVC will provide this necessary guidance as soon as possible.

Please let us know if we can provide additional information or answer any questions. We appreciate your work in providing necessary services for survivors.

Sincerely,

Center for Survivor Agency and Justice

Coalition to Abolish Slavery and Trafficking

Freedom Network USA

Identity Theft Resource Center

Polaris

Sarah Byrne, Moore & Van Allen Human Trafficking Pro Bono Project

Shared Hope

U.S. Committee for Refugees and Immigrants (USCRI)