§ 1100.33 Access to information and translation services for victims of severe forms of trafficking in persons.

(a) All federal investigative, prosecutorial, and correctional agencies engaged in the detection, investigation, or prosecution of crime shall use their best efforts to see that victims of severe forms of trafficking in persons are accorded all rights under federal victims' rights legislation. In cases involving severe forms of trafficking in persons, federal officials should provide victims within the United States, as defined by this subpart, information about their rights and applicable services, including:

1. Pro bono and low-cost legal services, including immigration services;
2. Federal and state benefits and services (victims who are minors and adult victims who are certified by the United States Department of Health and Human Services (HHS) are eligible for assistance that is administered or funded by federal agencies to the same extent as refugees; others may be eligible for certain, more limited, benefits);
3. Victim service organizations, including domestic violence and rape crisis centers;
4. Protections available, especially against threats and intimidation, and the remedies available as appropriate for the particular individual's circumstances;
5. Rights of individual privacy and confidentiality issues;
6. Victim compensation and assistance programs;
(7) Immigration benefits or programs that may be relevant to victims of severe forms of trafficking in persons, including those available under the VTVPA;

(8) The right to restitution;

(9) The right to notification of case status; and

(10) The availability of medical services.

(b) The federal agencies as defined in paragraph (a) of this section must ensure reasonable access to translation services and/or oral interpreter services in the event the victim is not able to communicate in English.

§ 1100.35 Authority to permit continued presence in the United States for victims of severe forms of trafficking in persons.

(a) Federal law enforcement officials who encounter alien victims of severe forms of trafficking in persons who are potential witnesses to that trafficking may request that the Immigration and Naturalization Service (INS) grant the continued presence of such aliens in the United States. All law enforcement requests for continued presence must be submitted to the INS, Headquarters Office of Field Operations, in accordance with INS procedures. Each federal law enforcement agency will designate a headquarters office to administer submissions and coordinate with the INS on all requests for continued presence. The designated headquarters office will be responsible for meeting all reporting requirements contained in INS procedures for the processing and administering of the requests for continued presence in the United States of eligible aliens.

(b) Upon receiving a request, the INS will determine the victim’s immigration status. When applicable and appropriate, the INS may then use a variety of statutory and administrative mechanisms to ensure the alien’s continued presence in the United States. The specific mechanism used will depend on the alien’s current status under the immigration laws and other relevant facts. These mechanisms may include parole, voluntary departure, stay of final order, section 107(c)(3)-based deferred action, or any other authorized form of continued presence, including applicable nonimmigrant visas.

(1) The alien’s continued presence in the United States under this subpart does not convey any immigration status or benefit apart from that already encompassed by the particular form of authorized continued presence granted. In most circumstances, victims granted continued presence will be eligible for temporary employment authorization.

(2) The continued presence granted through any of the mechanisms described in this paragraph (b) will contain the terms normally associated with the particular type of authorized continued presence granted, including, but not limited to, duration of benefit, terms and procedures for receiving an extension, travel limitations, and employment authorization unless expressly waived in an individual approval. Aliens granted deferred action based upon section 107(c)(3) are considered to be present in the United States pursuant to a period of stay authorized by the Attorney General for purposes of INA sections 212(a)(9)(B)(I) and (C).

(c)(1) In cases where it is determined that the granting to an alien of continued presence in the United States poses a threat to national security or to the safety and welfare of the public, the INS may require the requesting agency to meet special conditions or requirements prior to approval. The INS will promptly convey any such condition or requirement to the requesting agency in writing. Upon agreement by the requesting agency to comply with the conditions and accept the costs associated with the implementation of those conditions, the INS will grant the continued presence of the alien in the United States.

(2) Although the INS and the requesting law enforcement agency will make every effort to reach a satisfactory agreement for the granting of continued presence, the INS may deny a request for continued presence in the following instances:

(i) Failure, on the part of the requesting agency, to provide necessary documentation or to adhere to established INS procedures;

(ii) Refusal to agree or comply with conditions or requirements instituted