



# Freedom Network USA



February 25, 2020

Office of Management and Budget  
Paperwork Reduction Project  
*OIRA\_SUBMISSION@OMB.EOP.GOV*  
Attn: Desk Officer for the Administration for Children and Families

**RE: Domestic Victims of Human Trafficking Program Data Collection, OMB No.: 0970-NEW**

OMB Desk Officer for ACF:

Freedom Network USA (FNUSA) and HEAL Trafficking commend the HHS Office on Trafficking in Persons for seeking to improve the Domestic Victims of Human Trafficking Program (DVHT). The Department's commitment to ensuring US Citizen (USC) and Lawful Permanent Resident (LPR) survivors of human trafficking are successfully supported while meeting their need to process their trauma and heal from the abuse they have suffered is critical. We understand that receiving information from the DVHT grantees 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.<sup>1</sup>

HEAL Trafficking is a network in 35 countries of over 3100 trafficking survivors and multidisciplinary professionals building the capacity of health care to respond to trafficking, from a public health lens. We tackle issues at the crux of health and trafficking, including Education and Training, Protocols, Research, Direct Services, Prevention, Advocacy, Media and Technology. HEAL Trafficking brings together physicians, advanced practice clinicians, nurses, dentists, emergency medical services (EMS) personnel, psychologists, counselors, public health workers, health educators, researchers, clinical social workers, administrators, and other health professionals who work with and advocate for the health of survivors of human trafficking.

We recognize that the ACF has modified the forms in this collection in response to the comments received from FNUSA and other advocates in 2019. We deeply appreciate the responsiveness to our concerns and the continued effort to meet the needs of survivors with

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<sup>1</sup> Freedom Network USA 2018 Member Report, available at <https://freedomnetworkusa.org/app/uploads/2018/04/FRN-Member-Report-Digital-FINAL.pdf>.

this funding. We do believe, however, that more changes need to be made to truly uphold the ethical standards to which social and legal services agencies adhere in maintaining and preserving confidentiality in programming. As a result, we offer some additional comments on the modified forms subject to OMB review to support ACF's interests in ensuring the most effective program

FNUSA and HEAL Trafficking remain concerned by the highly detailed information that is being requested across the proposed forms and data collection tools. We do not believe the information being collected is necessary and may, in fact, have harmful unintended consequences. In some situations, it may even put clients at grave risk for re-victimization. The FY16 DVHT Funding Opportunity Announcement<sup>2</sup> states that the purposes of the program are to:

- ✓ Increase outreach and awareness, and identify domestic victims of severe forms of human trafficking;
- ✓ Expand collaboration and partnerships to implement innovative, multi-disciplinary, trauma-informed approaches to serve domestic victims of severe forms of human trafficking; and
- ✓ Develop, expand, strengthen, coordinate, and oversee the delivery and /or referral of services to domestic victims of severe of human trafficking.

We believe the data requested on the proposed forms goes far beyond what the program requires, is irrelevant to the primary objectives of DVHT, and in some cases is likely to compromise victim confidentiality in violation of the terms of the FOA. The FOA specifically requires that “[p]olicies and procedures must be in place to ensure the non-disclosure of confidential, private, or personally identifiable information concerning victims of human trafficking.”<sup>3</sup>

Our concerns and recommendations are detailed below, by form.

### 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 place of residence or country of origin. This directly contradicts the confidentiality policies of the grantee and the requirements of HHS. **Therefore, we recommend that DVHT grantees use a randomized client identifier system that does not disclose any PII.**

Client Services Forms require specific details on an individualized basis. We strongly oppose reporting forms that include PII such as date of birth, reference to the person's place of residence or where they will receive services, details about their trafficking experience, or country of origin. This directly contradicts the confidentiality policies of the grantee and the requirements of HHS.

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<sup>2</sup> US Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families- Family and Youth Services Bureau, Domestic Victims of Human Trafficking Program (HHS-2016-ACF-ACYF-TV-1186), p 3, available at [https://ami.grantsolutions.gov/files/HHS-2016-ACF-ACYF-TV-1186\\_0.pdf](https://ami.grantsolutions.gov/files/HHS-2016-ACF-ACYF-TV-1186_0.pdf) [hereinafter FOA].

<sup>3</sup> FOA, p 5.

**Grantees should be required to only provide client demographics in an anonymized, aggregated format.**

### **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 DVHT. Per the FOA<sup>4</sup>, persons qualified to receive services are the following:

- ✓ U.S. Citizens and Lawful Permanent Residents (LPR's)
- ✓ victims of severe forms of human trafficking, as defined by the TVPA
- ✓ adults and minors, regardless of gender (including victims who identify as LGBTQ)

The FOA goes on to clarify that the following are not required<sup>5</sup>:

- involvement in child welfare, juvenile justice, or criminal justice proceedings, or formally identified by law enforcement
- identified by law enforcement or involved with criminal justice proceedings

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

- Referral Source: This information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **This question should be deleted or provided only in an aggregate format.**
- Was the client enrolled in the DVHT program?; if no, select the primary reason why the client did not enroll into the program: This suggests that HHS is gathering detailed data, including potential PII, about people who were not even enrolled in this program. This is highly inappropriate and unusual for a victim services program. It is intrusive and distorts the data regarding people served with the grant funds. **These questions should be deleted.**

### **Client Demographics and Characteristics**

- Date of Birth/Age at time of intake: 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. **These questions should be deleted or provided only in an aggregate format.**
- Sex: This information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **This question should be deleted or provided only in an aggregate format in which nonbinary options are included.**
- Race/Ethnicity: This information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **This question should be deleted or provided only in an aggregate format.**
- Does the client have a disability?: 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. **This question should be deleted or provided only in an aggregate format.**

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<sup>4</sup> FOA, p 4.

<sup>5</sup> FOA, p 4.

- If client identifies as an American Indian or Alaska Native, in what Tribe are they enrolled?: This information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. Given the under-identification of human trafficking in Native communities, the specificity of this question is highly likely to be PII when combined with other details. **This question should be deleted or provided only in an aggregate format.**
- Country: 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. **This question should be deleted or provided only in an aggregate format.**
- Current Living Situation: This information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. **This question should be deleted or provided only in an aggregate format.**
- If client is a minor, are they enrolled in school?: This information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. It is also unlikely to be meaningful, as a minor may have already graduated high school or have completed an alternative school option. **This question should be deleted.**
- Is client employed? If yes, what is the type of employment? Is client enrolled in job training? If no, is the client seeking employment?: This information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. The answers presuppose that the client should be employed or looking for work, which is also inappropriate and counters the FOA's directive that the DVHT program is voluntary.<sup>6</sup> **These questions should be deleted.**

#### **Client's Presenting Needs**

- 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* generally but not identify specific needs. Alternately, HHS could ask for an aggregate report of the number of clients needing each service.**
- What public benefits does the client need?: This information is unrelated to the determination of whether the individual meets the eligibility criteria listed above. Additionally, clients may have needs for services that are denied, that they choose to not apply for, or do not receive for any other reason. This question will provide data that is misleading and not useful to the service provider and to HHS. **This question should be deleted.**
- Specify the geographic location where the client is or will be receiving the majority of services County or Parish/State or Territory/Tribal Land or Reservation: Specifying where the client will be receiving services is unnecessary, unrelated to the determination of whether the individual meets the eligibility criteria listed above, and is potentially PII when combined with other details. **This question should be deleted.**

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<sup>6</sup> "The DVHT Program is voluntary; hence, victims have the option to decline services provided by agency supported under the program." FOA, p6.

### Trafficking Experience

- 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, licensed mental health provider, or law enforcement to ensure that information is privileged and protected in case of a law enforcement investigation. **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, licensed mental health provider, or law enforcement to ensure that information is privileged and protected in case of a law enforcement investigation. **This question should be deleted.**
- If known, record the location of the most recent trafficking incident County/Parish, State/Territory, Country/Tribal Land or Reservation: This information is unrelated to the determination of whether the individual meets the eligibility criteria listed above and may rise to the level of PII in combination with the other questions in this section. Additionally, details about the survivor’s description of the trafficking experience should be discussed only with an attorney, licensed mental health provider, or law enforcement to ensure that information is privileged and protected in case of a law enforcement investigation. **This question should be deleted.**

Though *some* of this information can be useful for DVHT grantee service providers to collect and assess to complete a thorough case plan, oversee case management, analyze trends in the service area, and ensure quality service provision, it is not information that should be required to be collected nor required to be reported to HHS on an individualized basis. 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 DVHT program.**

Furthermore, in the Federal Register Notice<sup>7</sup>, HHS has estimated that it will take service providers approximately 1 hour 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 3816 Total Burden Hours, not the 1,908 projected by HHS.** This includes time needed for client-centered and trauma-informed approaches that are age-appropriate, to include breaks, and explanation about these concepts and questions and why they are being asked in the context of service provision.

Additionally, service providers ***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 “comprehensive case management approach that uses trauma-informed and victim-centered models.”<sup>8</sup> These practices are *neither* trauma-informed *nor* victim-centered. Requiring a survivor to

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<sup>7</sup> 84 FR 2873.

<sup>8</sup> FOA, p 5.

discuss their trauma history as a requirement to receive services 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 working on the investigation of the trafficking case or by attorneys who are representing the survivor to address their legal needs. Case managers are unlikely to have any recognizable legal privilege. If the trafficking case is prosecuted, the defense may attempt to introduce these service records into the case, and attempt to undermine the prosecution based on any perceived inconsistencies. This situation should be avoided at all costs.

#### **Client Service Use and Delivery Form**

Again, the purpose of the DVHT program is to help survivors access all services and benefits for which they are eligible. **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*.**

#### **Client Case Closure Form**

The DVHT 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 HHS to know the living situation or employment status of individual 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 Case Closing, Living Situation upon Case Closing, Did the client receive a referral for continued case management services?) be removed.**

#### **Barriers to Service Delivery and Monitoring Form**

The phrase “Lack of Cooperation of Client” uses victim-blaming language. **Therefore, we recommend revising this question so that it does not lead providers to blame survivors for access issues caused by service providers or systemic injustice including lack of physical or language access provision.**

#### **Total Direct Services Spending Form**

The form presents a challenge for grantees. Although most agencies will segment staff time by program, it is unlikely that they will track time spent per type of service for each client, nor will it be easy to do. Generally, case managers will meet with a client and review all of their needs and services. It would be more accurate to report the number of clients provided each service and the total staff and non-staff costs for all clients combined. The cost per service could be estimated. For a more detailed analysis, a separate research and evaluation project and budget would be needed, potentially the development of a custom database. **Therefore, we recommend revising the design of this form.**

### Partnership Development and Expansion: Enrollment Form

- Type of Partner Organization/Agency: This list includes a mixed list of corporate structures (Government, Private Sector, Faith Based, School, Service Provider, Child Welfare, etc.) and program area (Advocacy, Education, Health Care, Law Enforcement, Housing, Legal, etc.). It is unclear which element the HHS grantee should prioritize. For example, should a law firm be represented as Private Sector or Legal or Service Provider or Advocacy? **We recommend that this list be revised to focus on one element.**
- Services Provided by Subrecipient (in house). As this form is to be used with partners, whether they are providing services or not, and whether they are being paid for the services or not, this question needs further clarification. **We recommend that the term ‘Partner’ replace the term ‘Subrecipient’ (which has a very specific, legal meaning under 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards). We also recommend that this question be clearly marked as related only to Referral or Joint Programming Partnerships.**
- Services Provided Through Referral. As this form is to be used with partners, whether they are providing services or not, and whether they are being paid for the services or not, this question needs further clarification. **We recommend that this question be clearly marked as related only to Referral or Joint Programming Partnerships.**

### Partnership Development Exit Form

No concerns with this Form.

### Training Form

No concerns with this Form.

### Victim Outreach Reporting Form

This form suggests that the only appropriate outcome for outreach is screening of potential trafficking survivors. However, the purpose of the outreach event might be to educate the community, introduce the organization and services to a new population, provide contact information in a public space so that survivors can reach out later (privately) for services, or to develop new partnerships with stakeholders and service providers. Therefore, we recommend the addition of the following questions:

- What were the purposes of the outreach activities?
- How many outreach activities resulted in one or more individual screenings to determine eligibility for services?

These questions seek to understand the impact, utility and feasibility of using standardized and specific screening questions to connect clients to services. **Therefore, we recommend that these questions be added to the tool.**

### Ways to Minimize the Burden of Collection

The collection of *some* information is necessary for HHS to ensure the success of the DVHT program. However, as stated above the goal of the program is to, in sum, identify survivors of human trafficking, connect them to services, 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, victim-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 and HEAL Trafficking recognize 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.

For any questions or further information, contact Jean Bruggeman at [jean@freedomnetworkusa.org](mailto:jean@freedomnetworkusa.org).

Sincerely,



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