

Response:

U.S. Immigration and Customs Enforcement (ICE) and U.S. Citizenship and Immigration Services (USCIS) are consolidating web tip forms. The ICE web tip form (<https://www.ice.gov/webform/ice-tip-form>) will be revised and will replace the current web tip form USCIS uses to accept tips from the public about immigration benefit fraud and abuse (<https://www.uscis.gov/report-fraud/uscis-tip-form>). Tip information is collected from the public who voluntarily provide it using the above fill-in-the-blank form available on the ICE.gov website. ICE also offers the public the option to report tips directly through an international toll-free phone number (866-347-2423). Receiving offices use tip information provided by tipsters, when appropriate, to initiate further research, analysis, and investigation in furtherance of the ICE and/or USCIS mission.

Information Collection Authorization

The collection of this information is authorized by multiple statutes and regulations authorizing ICE to enforce the immigration and customs laws of the United States, including the following: 6 U.S.C. § 202; 8 U.S.C. § 1103; 8 U.S.C. § 1357; 8 U.S.C. § 1360; Title 18 U.S.C.; 19 U.S.C. § 1589a; 19 U.S.C. § 1619; 31 CFR Chapter X; 5 U.S.C. § 301; 31 U.S.C. § 5316; and 44 U.S.C. § 3101. USCIS derives authority to collect information relevant to immigration matters from the authority of the Secretary of Homeland Security to administer laws relating to immigration and naturalization, as stated in INA § 103(a)(1), 8 U.S.C. § 1103(a)(1), authority which has been delegated to USCIS. See Department of Homeland Security (DHS), Delegation to the Bureau of Citizenship and Immigration Services, Delegation Number 0150.1 (June 5, 2003), available at <https://www.hsdl.org/?view&did=234775>. Matters relevant to possible immigration fraud fall within that authority.

The use and potential sharing of tip information obtained through the ICE web tip form, as well as the identified revisions to the ICE web tip form, are subject to the restrictions set forth in 8 U.S.C. § 1367 and other applicable federal laws and regulations. The Violence Against Women Act (VAWA) includes provisions specifically intended to safeguard all information relating to individuals who have been victims of human trafficking (T visa), domestic violence (VAWA relief), and other qualifying crimes (U visa), codified at 8 U.S.C. § 1367. This law prohibits DHS from disclosing information related to a protected individual with limited exceptions. This law also prohibits DHS employees from making an adverse determination of admissibility or deportability against a protected individual using information furnished solely by an abuser or perpetrator, among other restrictions per 8 U.S.C. § 1367(a)(1).

ICE may share tip information with law enforcement or intelligence agencies that demonstrate a need to know the information in the performance of their missions and when the disclosure of information is otherwise authorized by law. For example, ICE shares tips pertaining to threats to the President of the United States with the U.S. Secret Service. ICE may share tip information with appropriate federal, state, local, tribal, territorial, foreign, or international government agencies to conduct law enforcement investigations, to disrupt criminal activity, to uphold and enforce the law, and to ensure public safety.

The use and potential sharing of the collected information is also covered by existing sharing agreements and related instruments, including the DHS/ICE-018 Analytical Records System of Records Notice (SORN), 86 Fed. Reg. 15246 (March 22, 2021) which is available at <https://www.federalregister.gov/documents/2021/03/22/2021-05651/privacy-act-of-1974-system-of-records>; the DHS/ICE-009 External Investigations SORN, 85 Fed. Reg. 74362 (November 20, 2020) which is available at <https://www.federalregister.gov/documents/2020/11/20/2020-25619/privacy-act-of-1974-system-of-records>; and the DHS/USCIS-006 Fraud Detection and National Security Records (FDNS) SORN, 77 Fed. Reg. 47411 (August 8, 2012) which is available at <https://www.govinfo.gov/content/pkg/FR-2012-08-08/html/2012-19337.htm>. Pursuant to the E-

Government Act of 2002, ICE published the Privacy Impact Assessment (PIA) DHS/ICE/PIA-055 Repository for Analytics in a Virtualized Environment (RAVEN) which is available at https://www.dhs.gov/sites/default/files/2022-06/privacy-pia-ice055-ravenappendixbupdate-june2022_1.pdf. USCIS and ICE will not share information with third parties about applicants or petitioners who are the subjects of tips, including those providing information via the ICE web tip form, except as allowed by law or regulation.

The Privacy Act Statement affixed to the tip form provides notice to the public, including potential tipsters, that information provided by tipsters may be shared internally within DHS for any appropriate official purpose. Information provided may also be shared with federal, state, local, tribal, territorial, and foreign law enforcement agencies in order to refer reports of suspicious activity, tips, potential violations of law, and other relevant information to agencies with appropriate jurisdiction, authorities, and need-to-know concerning the matter(s) reported, or as otherwise required by law. If tipsters are United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), their information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the DHS/ICE-018 Analytical Records SORN.

The submission of tip information is completely voluntary. The revised ICE web tip form will replace the current USCIS web tip form, and will request from tipsters the minimum amount of information required to report any tips concerning immigration benefit fraud. This revised information collection, which reduces the amount of time required to document, analyze, and route tips to the appropriate DHS agency and office for action by collecting immigration benefit fraud tips on one form instead of two separate forms, reduces the burden to the public and enables DHS to more effectively accomplish its core mission of protecting the Homeland.

Intended Revisions to the ICE Web Tip Form

The proposed revisions will include additional fields on the ICE web tip form to request the tipster provide immigration receipt numbers and Alien Registration Numbers (A-numbers), if known, when the tipster chooses to provide an immigration benefit fraud tip. The addition of these fields, which exist on the current USCIS web tip form, does not reflect an enhanced focus on collecting immigration benefit fraud tips in comparison to other violation categories on the ICE web tip form. The revisions to the ICE web tip form will make it easier for the public to report all immigration benefit fraud tips on one consolidated form, will facilitate the collection and transmission of immigration benefit fraud tip data to USCIS, and will assist the tipster to provide the minimum information required for USCIS and ICE to research, analyze, and investigate allegations. The ICE web tip form uses mandatory and non-mandatory fields to guide the tipster to provide the minimal pertinent and necessary information to enable ICE and USCIS to research, analyze, and investigate tip information. The added fields will prompt tipsters for the same information currently being requested by USCIS for all immigration benefit fraud tips.

The proposed revisions to the ICE web tip form do not violate confidentiality laws. Tip information is voluntarily provided by a tipster via the ICE web tip form. ICE may share tip information with law enforcement or intelligence agencies that demonstrate a need to know the information in the performance of their missions and when the disclosure of the information is otherwise authorized by law, including appropriate federal, state, local, tribal, territorial, foreign, or international government agencies to conduct law enforcement investigations, to disrupt criminal activity, to uphold and enforce the law, and to ensure public safety. Tip information may also be shared with other DHS components based on agency mission requirements. For example, tips pertaining to single-scope immigration benefit fraud and abuse are shared with USCIS, which engages in administrative investigations of single-scope immigration benefit fraud

and abuse. These sharing requirements are not violative of confidentiality law, regulations, or policies. Tipsters are fully informed of the potential sharing of tip information for official purposes, as well as potential uses of tip information, through the Privacy Act Statement at the end of the form.

ICE developed the web tip form in accordance with the Privacy Act, the Fair Information Practice Principles Memorandum (FIPPS; DHS Privacy Policy Guidance Memorandum Number 2008-01; December 29, 2008), which is available at <https://www.dhs.gov/sites/default/files/publications/privacy-policy-guidance-memorandum-2008-01.pdf>; and Executive Order 13610, Identifying and Reducing Regulatory Burdens (May 10, 2012), which is available at https://www.whitehouse.gov/wp-content/uploads/legacy_drupal_files/omb/inforeg/inforeg/eo_13609/eo_13610_identifying_and_reducing_regulatory_burdens.pdf; to request specific data points required to capture the minimum necessary information to receive tip information useful to ICE and USCIS, which also enables ICE and USCIS to satisfy mission requirements.

Tip Form Use

The proposed revisions to the ICE web tip form are designed to reduce the burden to the public by using one consolidated web tip form, instead of two separate web tip forms (the current USCIS web tip form and the current ICE web tip form) to report tips concerning immigration benefit fraud.

Tips are inherently only allegations of criminal or suspicious activity, and do not constitute dispositive evidence. Tips only provide a starting point for further research, analysis, and possible investigation in the field. Tip information alone does not directly result in adverse determinations of admissibility or removability.

Tipsters are provided instructions at the top of the ICE web tip form that they may use the form to report suspected criminal activity. Tips are not assessed as “credible” by the ICE Tip Line, because tips only provide a starting point for further research, analysis, and possible investigation by a field office. The ICE Tip Line performs a review of tip information to determine if the tip is “actionable.”

A tip may be considered actionable if the reported activity pertains to DHS statutory authorities; if there is sufficient information to identify subjects or organizations reportedly involved, or the tipster provides sufficient contact information to allow DHS personnel to contact the tipster for more information; and if there is a reported location associated with the activity that allows the tip to be sent to the appropriate DHS field office for further research, analysis, and investigation. Tips deemed actionable by USCIS or ICE only provide a starting point for further research, analysis, and investigation. Tips that are assessed as not actionable are closed by ICE and/or USCIS without referral or further action, and no independent enforcement actions are taken based solely on tip information.

Tipsters select the most applicable violation category on the ICE web tip form based on their knowledge or observation of what they believe to be suspicious, fraudulent, and/or criminal activity within DHS jurisdiction. Tipsters are not required to make legal determinations concerning the violation category they choose. Tip information provided by tipsters, including the violation category they select pertaining to the tip information, is evaluated for accuracy by ICE and/or USCIS staff and processed in accordance with all applicable protocols, and as appropriate based on the nature of the tip. In instances where tipsters inadvertently select an incorrect tip violation category, this poses minimal impact to ICE Tip Line procedures which, in all instances, require ICE Tip Line analysts to review incoming tip information holistically and to process as appropriate based on all information provided to determine actionability, not based on the category selected by the tipster. Tip information provided by tipsters, including the suspected violation category they select pertaining to the information, is evaluated for accuracy during this process.

The addition of detailed instructions and definitions for reporting tips within each violation category will increase the time burden to the public of reviewing and completing the form and may also have a chilling effect on the reporting of tip information by dissuading tipsters from using the form. The revisions to the ICE web tip form have been developed to request and capture the minimum necessary information which also enables both ICE and USCIS to satisfy mission requirements. No additional data points, caveats, qualifying language, or instructions are required on the ICE web tip form to enable ICE or USCIS to lawfully carry out their respective obligations under law and regulation.

Processing of Information Collected Through the ICE Web Tip Form

Once submitted, all immigration benefit fraud tips are automatically transmitted from the ICE web tip form to the USCIS FDNS Tip Unit for further research and analysis. USCIS receives and reviews all immigration benefit fraud tips submitted through the ICE web tip form, and forwards actionable single-scope immigration benefit fraud tips to the appropriate USCIS office with jurisdiction to initiate further research, analysis, and investigation. Approximately 80% of immigration benefit fraud tips received annually through the ICE web tip form fall under USCIS jurisdiction, and only 20% fall under ICE jurisdiction. USCIS will only forward tips falling under ICE jurisdiction (for example, tips concerning large-scale immigration benefit fraud conspiracies, immigration benefit fraud rings, and tips concerning national security or public safety threats) to the ICE Tip Line for further research and analysis. The ICE Tip Line will forward actionable tips to the appropriate DHS office with jurisdiction to initiate further research, analysis, and investigation.

ICE and USCIS staff vet tip information by conducting research in DHS, law enforcement, and public records databases, as well as open-source information available to the public, to assess whether a tip is actionable. If a tip is deemed actionable, ICE and USCIS staff produce reports which are disseminated to the DHS office with programmatic and geographic responsibility for the reported allegation. The receiving DHS office performs additional research, analysis, and investigation before determining whether any further action is warranted. Tips deemed actionable by USCIS or ICE only provide a starting point for further research, analysis, and investigation. Tip information is not dispositive evidence, and does not directly result in adverse determinations of admissibility or removability. Tips that are assessed as not actionable are closed by ICE and/or USCIS without referral or further action, and no independent enforcement actions are taken based solely on tip information.

Processing of Anonymous and Non-Anonymous Tips

Tips are inherently only allegations of criminal or suspicious activity, and do not constitute dispositive evidence. Tips only provide a starting point for further research, analysis, and possible investigation in the field. Tip information alone does not directly result in adverse determinations of admissibility or removability. Tips are not assessed as “credible” by the ICE Tip Line, because tips only provide a starting point for further research, analysis, and possible investigation by a field office. The ICE Tip Line performs a review of tip information to determine if the tip is “actionable.”

A tip may be considered actionable if the reported activity pertains to DHS statutory authorities; if there is sufficient information to identify subjects or organizations reportedly involved, or the tipster provides sufficient contact information to allow DHS personnel to contact the tipster for more information; and if there is a reported location associated with the activity that allows the tip to be sent to the appropriate DHS field office for further research, analysis, and investigation.

Tips deemed actionable by ICE or USCIS only provide a starting point for further research, analysis, and investigation. Tips that are assessed as not actionable are closed by ICE and/or USCIS without referral or further action, and no independent enforcement actions are taken based solely on tip information.

Per DHS Directive 002-02 Revision Number 00.1, Implementation of Section 1367 Information Provisions (issued on November 1, 2013 and revised on April 29, 2019; available at https://www.dhs.gov/sites/default/files/publications/mgmt/community-and-social-services/mgmt-dir_002-02-implementation-section-1367-info-provisions_revision-00-1.pdf), adverse determinations of admissibility or deportability against a noncitizen are not made using information furnished solely by prohibited sources associated with the battery or extreme cruelty, sexual assault, human trafficking or substantial physical or mental abuse, regardless of whether the noncitizen has applied for VAWA benefits, or a T or U visa. If a DHS employee receives adverse information about a victim of domestic violence, sexual assault, human trafficking or an enumerated crime from a prohibited source, DHS employees should treat the information as inherently suspect and exercise all appropriate prosecutorial discretion with respect to pursuing the adverse information. Further, DHS employees receiving information solely from a prohibited source do not take action on that information unless there is an independent source of corroboration.

Additionally, per DHS Directive 002-02 Revision Number 00.1, DHS components with access to Section 1367 information create ways to identify those individuals protected by Section 1367 confidentiality through database checks and develop safeguards to protect this information in the relevant systems. All DHS employees who, through the course of their work may come into contact with victim applicants or have access to the information covered by 8 U.S.C. 1367, complete Noncitizen Victims of Crime: Immigration Benefits and Confidentiality Protections training, which is currently available on DHS component Learning Management Systems (LMS).

Warning About Knowingly Providing False Information

The ICE web tip form includes a warning that knowingly providing false information via the form could subject tipsters to fines, imprisonment, or both (18 U.S.C. § 1001). The text concerning the warning regarding knowingly providing false information is purposely located at the bottom of the form immediately above the CAPTCHA test box which requires tipster review and completion, as well as the submission button which requires the tipster to click to submit the tip. The warning text is prominently emphasized in bold font and capital lettering, and serves as a final reminder that tipsters should consider the totality of information they have added to the form before they confirm that the information is correct to the best of their knowledge and choose to click the “submit” button at the bottom of the page.

ICE/HSI personnel may determine that false tip information has been received through analysis, investigation, and law enforcement coordination with other federal, state, or local authorities as appropriate based on the nature of the tip. In these instances, ICE/HSI may take enforcement action against tipsters who provide false information via the ICE web tip form. ICE/HSI has investigated and arrested tipsters who have knowingly filed false tip information in violation of 18 U.S.C. § 1001.

Why ICE and USCIS Collect Anonymous Tips

As stated above, ICE developed the web tip form in accordance with the Privacy Act, the Fair Information Practice Principles (FIPPS; DHS Privacy Policy Guidance Memorandum Number 2008-01; December 29, 2008), and Executive Order 13610, Identifying and Reducing Regulatory Burdens (May 10, 2012) to request specific data points required to capture the minimum necessary information to receive tip information useful to ICE and USCIS, which also enables ICE and USCIS to satisfy mission requirements. No additional data points, caveats, or instructions are required on the ICE web tip form to enable ICE or USCIS to carry out their respective duties under law and regulation.

Requiring additional identifying information from tipsters would likely have a chilling effect that dissuades tipsters from using the form, and would not allow the provision of tip information from tipsters

who wish to remain anonymous related to concerns for their personal safety. Law enforcement agencies have a historical precedent of accepting anonymous tips from the public. Tips that are assessed as not actionable are closed by ICE and/or USCIS without referral or action, and no independent enforcement actions are taken based solely on tip information.

Payment for Information

ICE has the discretion and statutory authorization to pay for information and/or evidence that is ultimately used in support of criminal investigations. Tipsters may be compensated at ICE's discretion based upon the actionability, credibility, and value of tip information provided. Providing tip information does not guarantee that tipsters will be compensated in any way.

Tips that are assessed as not actionable are closed without referral or action, and no independent enforcement actions are taken based solely on tip information. Tipsters are not compensated for information assessed as not actionable, credible, or valuable.

Tip Information Concerns Pertaining to the Violence Against Women Act (VAWA); 8 U.S.C. § 1367; and Victim-Centered Directives and Policies

The ICE web tip form provides an important mechanism which may empower tipsters to report abuse they or their family members may be experiencing as victims of criminal activities within the ICE mission, including labor trafficking, human trafficking, and child exploitation.

Protections afforded within 8 U.S.C. § 1367 apply to a small subset of noncitizens seeking benefits or relief, and most individuals suspected of committing immigration benefit fraud are not afforded protections by 8 U.S.C. § 1367. The revisions to the ICE web tip form do not allow mala fide actors to circumvent protections afforded by 8 U.S.C. § 1367, where applicable, because tip information only provides a starting point for further research, analysis, and investigation. Tip information does not directly result in adverse determinations of admissibility or removability.

The use of tip information obtained through the ICE web tip form, as well as the identified revisions to the ICE web tip form, do not negate or contravene the restrictions set forth in 8 U.S.C. § 1367. The Violence Against Women Act (VAWA) includes provisions specifically intended to safeguard all information relating to individuals who have been victims of human trafficking (T visa), domestic violence (VAWA relief), and other qualifying crimes (U visa), codified at 8 U.S.C. § 1367. This law prohibits DHS from disclosing information related to a protected individual with limited exceptions. This law also prohibits DHS employees from making an adverse determination of admissibility or deportability against a protected individual using information furnished solely by an abuser or perpetrator, among other restrictions per 8 U.S.C. § 1367(a)(1).

The use of tip information obtained through the ICE web tip form, as well as the identified revisions to the ICE web tip form, do not negate or contravene the policy requirements set forth in ICE Directive 11005.3, Using a Victim-Centered Approach with Noncitizen Crime Victims (August 10, 2021), which is available at <https://www.ice.gov/doclib/news/releases/2021/11005.3.pdf>. ICE personnel will exercise prosecutorial discretion in appropriate circumstances to facilitate access to justice and victim-based immigration benefits by noncitizen crime victims. To that end, absent exceptional circumstances, ICE will refrain from taking civil immigration enforcement action against known beneficiaries of victim-based immigration benefits and those known to have a pending application for such benefits.

Additionally, per ICE Directive 11005.3, ICE officers and agents may encounter noncitizen victims of crime who are not the beneficiaries of victim-based immigration benefits and who do not have pending applications for such benefits. Accordingly, in the course of their duties, ICE personnel are required to

look for indicia or evidence that suggests a noncitizen is a victim of crime, such as being the beneficiary of an order of protection or being the recipient of an eligibility letter from the U.S. Department of Health and Human Services' Office of Trafficking in Persons. The fact that someone is a victim of crime and, where applicable, may be eligible for victim-based immigration benefits for which they have not yet applied, is a discretionary factor that is required to be considered by ICE personnel in deciding whether to take civil immigration enforcement action against the noncitizen or to exercise discretion, including but not limited to, release from detention.

The use of tip information obtained through the ICE web tip form, as well as the identified revisions to the ICE web tip form, do not negate or contravene the policy requirements set forth in DHS Directive 002-02 Revision Number 00.1, Implementation of Section 1367 Information Provisions (Issued on November 1, 2013 and revised on April 29, 2019), which is available at https://www.dhs.gov/sites/default/files/publications/mgmt/community-and-social-services/mgmt-dir_002-02-implementation-section-1367-info-provisions_revision-00-1.pdf. Per DHS Directive 002-02 Revision Number 00.1, all DHS officers and employees are generally prohibited from permitting use by, or disclosure to anyone other than a sworn officer or employee of DHS, Department of State (DOS), or Department of Justice (DOJ), of any information relating to a beneficiary of a pending or approved application for victim-based immigration benefits, including a battered spouse waiver, VAWA self-petition, VAWA cancellation of removal or suspension of deportation case, or T or U nonimmigrant status, including the fact that the individual has applied for such benefits.

Per DHS Directive 002-02 Revision Number 00.1, adverse determinations of admissibility or deportability against a noncitizen are not made using information furnished solely by prohibited sources associated with the battery or extreme cruelty, sexual assault, human trafficking or substantial physical or mental abuse, regardless of whether the noncitizen has applied for VAWA benefits, or a T or U visa. If a DHS employee receives adverse information about a victim of domestic violence, sexual assault, human trafficking, or an enumerated crime from a prohibited source, DHS employees should treat the information as inherently suspect and exercise all appropriate prosecutorial discretion with respect to pursuing the adverse information. Further, DHS employees receiving information solely from a prohibited source do not take action on that information unless there is an independent source of corroboration.

Additionally, per DHS Directive 002-02 Revision Number 00.1, DHS components with access to Section 1367 information create ways to identify those individuals protected by Section 1367 confidentiality through database checks and develop safeguards to protect this information in the relevant systems. All DHS employees who, through the course of their work may come into contact with victim applicants or have access to the information covered by 8 U.S.C. § 1367, complete *Noncitizen Victims of Crime: Immigration Benefits and Confidentiality Protections* training, which is currently available on DHS component Learning Management Systems (LMS).