

ORR VTM: Q&A on SOT Eligibility Determination

Information Required for Documenting Client Eligibility

ORR requires recipients to document an applicant's eligibility for SOT Program services using an eligibility determination form based on these guidelines. The process of determining eligibility is separate from the intake assessment.

To document eligibility, please either use the [Eligibility Determination Form - NCB TEMPLATE](#) or refer to it creating a form for your program. The form must

1. include all eligibility criteria,
2. the responses must be well documented, and
3. the completed form must be signed by the staff member responsible for making the determination.

List of client case file contents as required by the Direct Services for Survivors of Torture funding opportunity.

- Intake assessment
- Eligibility determination form
- Enrollment and service agreement
- Informed consent and release of information form
- Grievance policy letter
- Goal-centered Individual Self-Sufficiency and Wellness Plan
- Detailed case notes documenting regular client-case worker interaction
- Quarterly assessments
- Survivor Family Self-Sufficiency and Wellness Plan
- Referrals
- Records of any mentoring or volunteering that the client is providing or receiving
- Records of any goods or services donated to the client with client signatures
- Records of client employment training and education
- Case closure letter

General comments on the Eligibility Determination Form (EDF):

- The eligibility form that you choose to use must address each of the eligibility criteria, which are identified and explained in both the NCB template form and the [revised eligibility determination guidelines](#).
- The process of determining eligibility is separate from an intake assessment.
- This is the basic set of questions that you need to answer to determine whether somebody's eligible for services.

A: What did the applicant endure that may constitute torture?

- This can include not only acts, but also omissions (e.g. withholding medical care, which results in severe pain or suffering can constitute torture). And then it asks to explain your answer and provide details.

B: Did the alleged torture occur outside the United States?

- Question: Does the response need to be very specific or can it simply be "yes/no"?
- Answer: This is a Y/N question *with* specification as to where it occurred (e.g. Liberia)
 - At a minimum, the country should be listed; if there's more specific information (e.g. Monrovia or a village outside of Monrovia) it's fine to include, but is not necessary.

C: Was the alleged torture committed under the color of law?

- If the act is perpetrated by the government or a government official *or* if the government allows it to happen whether through purposeful authorization or just ignoring it without an effort to prevent or punish it, then the answer to that is yes.
- QUESTION: Do we need to have references/citations to back up our claim?
 - Answer: Not necessarily. If somebody has reasonably detailed information that they can recount, that can be sufficient on its own.
 - If you want to include supporting documentation, country conditions can be found through a variety of resources, including the United States Department of State, Bureau of Democracy, Human Rights, and Labor.
- QUESTION: What if the government isn't intentionally looking the other way but can't do anything (e.g., where gangs rule but the government is not in cahoots with them)?
 - Answer: This is not limited to "Unwilling." "Unable to prevent or punish" is enough.
- QUESTION: Do we need to provide background information on the gangs/cartels/etc. and why they have power in the area?
 - Answer: It is helpful to provide some context, but not a lot of detail is required here. Whatever information you do have in terms of background information about who committed it and why the government is unwilling or unable to control them if it's a non-state actor, it could be included here.

D: Did the perpetrator "specifically intend" to inflict the alleged torture?

- Specific intent does not mean "why," nor does it mean "purpose." While it is fine to include a "why" or "purpose" where one is present, it isn't necessary. All that is required to satisfy this element is that the perpetrator knew, *or should have known*, that their acts would cause severe physical or mental pain or suffering, regardless of why they were committing those acts.

E: Did the survivor suffer severe physical or mental pain or suffering?

- Example answer: "Yes. He continues to suffer from nightmares, intrusive thoughts, distrust of authority, and fear for the safety of himself and his family."

F: Was the severe pain or suffering "incidental to lawful sanctions"?

- Example answer: "The perpetrators do not create or enforce official laws in country X yet operate without impunity."

G: Was the survivor within the perpetrators “custody or lawful control” when the alleged acts of torture were committed?

- Example answer: Yes, Mr. X was taken and held against his will at an undisclosed location near his home.”

H: Circumstances that do not constitute torture:

- Pain and suffering from accidental or random causes
- An applicant must experience individual harm in some fashion—eligibility cannot be based on collective human suffering and trauma experienced by large groups of persons due to mass persecutions, detention, war violence, or ethnic cleansing. However, if an applicant in any such groups is individually subjected to severe pain or suffering – e.g., as part of mass violence or persecution they themselves are detained, or raped, or otherwise abused – they will be eligible if they meet the criteria above.
- Torture committed by private individuals acting on their own does not meet the definition applied to the SOT Program, *unless* the government officially tolerates, or, as a general matter, otherwise acquiesces in such torture by failing to prevent or punish it.

I: Is the person a secondary survivor of torture?

- Instead of responding to the primary survivor question, fill out the section on secondary survivors.

Signature section

There are two different places for signature. It's not required that you have two separate signatures. The first line is if the survivor is a *primary* survivor. The second is for a *secondary* survivor.

Eligibility vs intake form

QUESTION: We have a separate intake and eligibility form. However, on our eligibility form, we track questions and data points not required for eligibility. Are we allowed to include those non-eligible specific questions on the form?

- It is recommended that the eligibility determination questions not be embedded in another form, but have their own form.
- If you do have them included in a form with additional information, ensure that they are clearly identifiable as eligibility determination questions.

Document name: [Eligibility Determination Form - NCB TEMPLATE](#)

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