



Questions and Answers

USCIS International Operations – American Immigration Lawyers Association (AILA) Meeting February 15, 2017

Overview

On February 15, 2017, the USCIS International Operations Division representatives from the Mexico City and San Salvador Field Offices participated in an engagement with AILA representatives telephonically. USCIS discussed issues related to operations and various services, including I-130s, Transportation Letters and Adoptions. The information below provides a review of the questions solicited by AILA and the responses provided by USCIS.

General Operations

1. Please discuss general operations in the office, such as number of locally engaged staff and USCIS officers.

Response for Mexico City: The Mexico City Field Office has one Field Office Director, two International Adjudications Officers, and 5 locally-engaged staff positions.

Response for San Salvador: The San Salvador Field Office has one Field Office Director, one International Adjudications Officer position, and 5 locally-engaged staff positions.

2. What product lines does your office deal with the most? Adoptions cases vs refugee cases vs locally filed I-130s vs Transportation Letters?

Response for Mexico City: This fiscal year to date, we have received more I-407s than any other form type, followed closely by boarding letters and I-130s.

Response for San Salvador: The San Salvador Field Office spends most of its time handling parole authorizations for the Central American Minor program.

3. It appears that walk-ins are not available at either office, but individuals should make an InfoPass appointment. Can you confirm that InfoPass is the best way to schedule an appointment with your office?

Response for Mexico City: Yes, InfoPass is the best way to schedule an appointment with Mexico City. If the applicant has a need to see us on an emergency basis (i.e. needs a transportation letter for upcoming flight) she/he may call us or e-mail us if no appointment is available prior to scheduled return to the U.S.

Response for San Salvador: Yes. Infopass is the best way to schedule an appointment. The RSO requires that we provide them a list of names of all individuals entering the embassy compound. If there is an emergency they can email or call our office and we will try to assist.

4. What are goal processing times for e-mail inquiries? Is your office meeting that goal?

Response: While there is no set processing time goal, we aim to answer email inquiries within one week of receipt. During a random review conducted in FY2016, Mexico City responded to all inquiries within one week. San Salvador responded to about half the inquiries within one week. San Salvador was understaffed during much of the review, but staffing resources increased since then.

5. What are some common issues that you see (e.g., documents people often forget to provide, which may cause a delay)? AILA attorneys would be happy to provide guidance to clients to ensure all required documents are submitted initially.

Response for Mexico City: Occasionally applicants do not provide all documents necessary to establish prima facie eligibility in order to file an I-130 (proof of residency in Mexico, proof of termination of prior marriages, etc.) We encourage applicants to follow the applicable form instructions.

Response for San Salvador: This is usually an issue for I-730s. We send beneficiaries a Notice of Receipt and Interview six weeks prior to their appointment date. The Notice indicates all of the documents that should be presented, and beneficiaries regularly appear without: translated birth/marriage certificates, I-94, I-765, G-325c, photos, and supporting documents to establish relationship (i.e. photos, baptism certificate, school records, etc.) When the beneficiary appears they explain that they were not told to bring the required items.

Locally Filed I-130 Petitions

6. Do you prefer if Petitioner and Beneficiary come to the USCIS office to file the I-130 petition or is the Petitioner sufficient?

Response for Mexico City: Mexico City does not have any preference. Form I-130 may be filed in-person with either the petitioner and beneficiary or just the petitioner present or they may be mailed. The office will contact the petitioner if an interview is needed.

Response for San Salvador: It is sufficient for the petitioner to come to the office to file Form I-130. If there are any issues with the documentation or any other issue that might call the validity of the relationship into question, we would request for the beneficiary to come to the office.

7. For El Salvador: The posted processing times indicates that I-130s locally filed are processed in 2.5 months (El Salvador). Is there a goal to decrease that processing time to 1-2 months?

Response: We refer you to HQ IO for statistical information on processing times.

Locally Filed Waivers: I-601s and I-212s

8. AILA understands that applicants need to meet appropriate requirements set out by the USCIS Memo on filing I-601s and I-212s abroad. Assuming an individual meets those requirements and the waiver can be filed locally, please advise on the following:

a. General Processing of locally filed Form I-601s and Form I-212, such as caseload and timeframe for adjudication.

Response: No I-601s have been received this fiscal year in either office. Because IO now processes very few of these applications and only based on exceptional circumstances, there is no set processing time target. Rather, offices aim to process the applications expeditiously, commensurate with the basis that the request for exceptional filing was granted.

b. Please discuss a bit the difference between meeting not only the "exceptional circumstances" that are described in the USCIS memo, but more specifically, the ability to prove that filing in the US using Expedite Criteria won't be sufficient in adjudicating the case fast enough. (For clarification, AILA believes its members don't understand these requirements fully in order to ensure the appropriate documentation is being sent to the offices abroad to make a clear decision on whether the case can be filed abroad.)

Response: The difference between expedited adjudication of Form I-601 by the NSC and the exceptional circumstances that may warrant filing with the international field office is the degree to which the situation is imminent, urgent, and time sensitive. The more imminent, urgent and time sensitive a situation the more likely that expedited processing will not sufficiently address the need to immediately act to resolve the problem at issue. Applicants must present evidence regarding the imminence, urgency, and time sensitive factors of the exceptional circumstances claim to warrant filing with the international field office and any other evidence that domestic expedited processing would not be sufficient to meet the exceptional circumstance.

The following four examples, but not an exhaustive list, are taken from the November 30, 2012, Policy Memorandum on *Exceptions for Permitting the Filing of Form I-601, Application for Waiver of Grounds of Inadmissibility, and any associated Form I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal, at International USCIS Offices*, and are illustrative of situations where the FOD may accept the filing of Forms I-601 and associated Form I-212:

- Medical emergencies where the applicant or qualifying family member is facing an urgent medical situation requiring immediate travel, as where the petitioner or beneficiary is pregnant and delaying travel for the time it would take for expedited NSC adjudication may create a medical a risk or extreme hardship for the mother or child. The applicant should present documentation from a verified specialist as to the existence of this situation.
- Threats to the personal safety of the waiver applicant or qualifying family member place him or her in imminent danger to personal safety. The documentation for this would be case specific.
- A beneficiary is within a few weeks of aging out of visa eligibility.
- A petitioner has adopted a child locally and has an imminent need to depart the country. The petition must document the adoption and the need to depart.

As a reminder, each situation needs to be considered individually except for Cuba where the exceptional circumstances memo still allows the filing of any I-601 application directly with the USCIS Field Office in Havana, Cuba.

c. Please advise if there is a preferred format for submitting a locally filed I-601. For instance, do you prefer a more detailed legal brief with the supporting documents OR would you prefer a shorter brief and allow the documents to simply speak for themselves.

Response: Applicants should file all evidence and arguments that they would like to be considered in adjudicating Form I-601.

d. In adjudicating I-601s locally, do local adjudicators receive the same training in processing those cases as those in the US or are adjudicators trained in a different manner, as the USCIS officers living abroad making the determination live locally and may understand the in-country difficulties more

Response: International Adjudications Officers receive the same basic training as domestic adjudicators, and also receive refresher training on Form I-601 prior to deployment, including international filing procedures.

Refugee Processing

9. Has the workload changed due to the recent changes by the US government? e.g., posted processing times for I-730s are posted at 6.4 months per the USCIS website. Should we understand that no I-730s are being adjudicated locally at this time?

Response: We refer you to HQ IO for statistical information on processing times. I-730s continue to be adjudicated by International Field Offices.

Adoption

10. As a result of recent changes in US immigration, has your office seen any delays in adoption cases processing through your offices?

Response for Mexico City: Mexico is a party to the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Adoption Convention). Hague Adoption Convention cases are processed by the USCIS National Benefits Center and the Embassy in Mexico City. ~~and~~ The Mexico City Field Office does not have a role in processing Hague Adoption Convention cases.

Response for San Salvador: All the countries under San Salvador's jurisdiction, except Costa Rica and Honduras, are parties to the Hague Adoption Convention. The San Salvador Field Office does not have a role in processing Hague Adoption Convention cases. The San Salvador Field Office only has a role processing intercountry adoption cases for non-Hague countries within the office's jurisdiction when a Form I-600, Petition to Classify Orphan as an Immediate Relative is sent by the Department of State as "not clearly approvable." No such petitions have been received this fiscal year.

I-407s

11. Has your office seen an increase in I-407 application submissions? Is there any backlog in I-407 processing at your office?

Response: No, looking at the past year, there has not been a trend of increased Form I-407 submissions. The overall trend is pretty steady. There currently is no backlog at either office.

Transportation Letters

12. Is your respective office issuing TLs or is the State Department providing them at your post?

Response: The USCIS Field Office issues transportation letters in both Mexico City and San Salvador.

13. If your office is issuing TLs, how has adding that product line impacted your caseload?

Response: Both offices were already issuing transportation letters prior to recent changes, so there was no new impact on the offices' workload.

14. Can you advise on a general timeframe that it is taking to issue TLs?

Response: As we note on our office websites, we aim to process carrier documentation applications within two weeks. We refer you to HQ for further statistical information.

15. For Mexico City: Is your office only processing TLs for your jurisdiction within Mexico (e.g., not in CDJ or Monterrey's jurisdictions) or would your office process a case for any individual in Mexico?

Response: Generally, applicants should go to the office that covers their jurisdiction. Monterrey and Ciudad Juarez see very few requests for transportation letters due to their proximity to the border and, more often, these are land border crossings that do not require transportation letters. Mexico City would handle requests for boarding letters from applicants residing outside its jurisdiction on a case-by-case basis.

Biometrics Abroad

16. Per the USCIS website, fingerprinting services may be available for overseas applicants in "rare" circumstances. Please advise if any of these requests have been made, and if so, have any requests been granted?

Response: IO previously advised that USCIS does not keep track of biometric collections overseas. We do track the amount of time international staff spends on collecting biometrics in the aggregate, but we do not track the number of requests submitted, granted, and denied.

Military Naturalization, N-400s

17. Do your respective offices assist with military natz cases? If so, where do your officers travel to in general in order to interview and swear-in individuals?

Response: Neither office has been called upon to assist with military naturalization cases.