



Executive Summary

USCIS Teleconference on Overseas Filing of Form I-130, Petition for Alien Relative

Overview

On August 10, 2011, USCIS hosted a teleconference to discuss the changes to the filing procedures for the Form I-130, Petition for Alien Relative, when being filed by petitioners residing overseas. USCIS explained that the Agency is reviewing its overseas services and operations to determine ways to improve resource management. Fewer than 5% of all Forms I-130 are currently filed overseas of which approximately half are filed with the Department of State where USCIS does not have a presence. Provisions of the Economy Act allow government agencies to charge other government agencies for the delivery of services. In fiscal year 2010 USCIS was billed approximately \$3 million by the Department of State for the service of adjudicating Form I-130 at their embassies and consulates overseas. By centralizing the processing and adjudication of Forms I-130 at domestic service centers, USCIS can ensure that these petitions are adjudicated by the trained and experienced USCIS officers and control costs to the agency.

On May 17, 2011, USCIS published a final rule in the Federal Register amending the regulations to remove references to where the Form I-130 may be filed, processed and adjudicated. The new Form I-130 instructions published on August 15, 2011, require that petitioners residing in countries without USCIS offices file their Form I-130 at the USCIS lockbox facility in Chicago. This change went into effect on August 15, 2011.

Petitioners residing in a country where USCIS has an office may choose to file directly with that office. Additionally, for situations in which mailing the petition would create an emergency situation, USCIS may authorize Department of State to accept and adjudicate these emergency cases at an embassy or consulate.

This session was for USCIS to listen to the views and information of individual stakeholders and was not used for the purpose of obtaining group or consensus advice.

Principal Themes

- **Processing Times**

Several stakeholders were concerned that processing times would be negatively impacted for individuals filing Forms I-130 with the lockbox. Stakeholders were also interested to know if staffing would be increased at the lockbox and service centers in order to handle these additional filings. USCIS acknowledged that, at present, some USCIS international offices have faster processing times however other international offices may have longer processing times compared to processing times in the United States. Having all Forms I-130 processed and adjudicated domestically will allow for more consistent and uniform adjudications and processing times. Currently, Form I-130 processing times for domestic filings average approximately five months. USCIS service centers and lockbox operations will continue to monitor their staffing levels and make adjustments as necessary to ensure efficient service.

- **Exceptional Circumstances**

Several stakeholders had concerns about the new policy's effect on separation of families while their Form I-130 is processed. USCIS understands that circumstances can arise in which families may be separated for a period of time. USCIS has a procedure in place that gives careful consideration to emergency, humanitarian, or other compelling situations. Specifically, there was concern about the aging out of children and cases involving the adoption of children, both of which may fit under the definition of compelling circumstances. USCIS has posted for public comment a guidance memorandum that outlines some of the circumstances that may warrant authorization to file a Form I-130 by the Department of State at a local embassy or consulate where USCIS does not have a presence. USCIS is assessing whether the list of examples of circumstances under which petitioners will be permitted to file at a post should be expanded. USCIS is mindful of the real-life impact that the change in the processing of the Form I-130 might have in particular cases and, accordingly, will be issuing guidance to its adjudicators to ensure that the equities of each case are duly considered in determining whether a case warrants expedited local processing. Stakeholders were encouraged to review and provide comments on the guidance during the comment period.

- **Concerned Stakeholders**

A number of stakeholders were unaware of these revised procedures until recently and expressed concern that the new process will have a negative effect on business, family unity and processing times. Prior to this engagement, USCIS hosted two stakeholder engagements on this same topic, one in November 2010 and another in June 2011. The previous engagements allowed stakeholders the opportunity to provide feedback and input in advance of implementing the revised procedures and to answer operational and procedural questions. During the [initial engagement](#), stakeholders expressed concern about filing procedures, processing times, response times for correspondence, emergency/humanitarian circumstances, customer service and fraud. USCIS considered all of these factors in developing revised procedures. In particular, USCIS addressed the feedback in relation to [response times](#) and [emergency/humanitarian issues](#) by developing policy guidance that was posted for public comment. A Federal Register Notice announcing the revised filing procedure was published on May 17, 2011 and provided for a 60-day public comment period. In June 2011, just after the rule was published, USCIS held a [second opportunity](#) for public input. In addition, USCIS announced the revised procedures through the website and media materials.

- **Fraud**

At least one stakeholder believed that the purpose of the new filing procedure was to improve upon fraud detection. However, USCIS indicated that this procedural change was not driven by concerns about fraud but instead was implemented to increase efficiency and consistency of the Form I-130 process.

- **Forms of Payment**

At least one stakeholder asked if other mechanisms of payment were available other than having to draw funds from a U.S. bank for petitioners filing from overseas. There is currently no mechanism of payment at this time other than checks drawn on U.S. banks.

- **List of International Offices**

At least two stakeholders asked for a list of all of USCIS' overseas offices. The complete list can be found on our website at www.uscis.gov/international.

Next Steps

The interim Policy Memorandum, [Process for Responding to Requests from Department of State to Accept a Locally-Filed Form I-130](#), was posted for public comment on the USCIS website. As noted previously, USCIS will closely monitor the revised procedures. USCIS welcomes individual stakeholder feedback to better inform our decision-making process via our Public Engagement mailbox: public.engagement@dhs.gov. USCIS will host another stakeholder engagement to ensure USCIS has accurately identified and addressed, to the extent possible, the concerns raised by our stakeholders on this issue.