USCIS Closure of Some International Offices Impacts Applications, Petitions, and Forms Typically Processed by Field Offices Overseas

by USCIS HQ (Benefits Policy) Liaison Committee

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On August 9, 2019, USCIS announced a change to its previously reported plans to close all its international field offices by March 10, 2020. The August 9th announcement indicates that USCIS plans to maintain operations at seven international USCIS offices: Beijing and Guangzhou, China; Nairobi, Kenya; New Delhi, India; Guatemala City, Guatemala; Mexico City, Mexico; and San Salvador, El Salvador. The announcement states the last three offices were kept open by then USCIS Acting Director Ken Cuccinelli as part of the “whole-of-government approach to address the crisis at the southern border.” Previously, USCIS had indicated that it planned to close all of its international field offices by March 10, 2020.

The remaining thirteen (13) international field offices: Santo Domingo, Dominican Republic; Port-au-Prince, Haiti; Monterrey, Mexico; Lima, Peru; Seoul, South Korea; Bangkok, Thailand; Frankfurt, Germany; Accra, Ghana; Athens, Greece; Rome, Italy; Amman, Jordan; Johannesburg, South Africa; and London, United Kingdom, and the three (3) district offices are: Mexico City, Mexico (Latin America, Canada and the Caribbean [LACC] District); Bangkok, Thailand (Asia-Pacific [APAC] District; and Rome, Italy (Europe, Middle East and Africa [EMEA] District) are expected to close between now and August 2020.

The closing of offices has already commenced with the USCIS Field Office in Ciudad Juarez, Mexico (June 30, 2019) and the USCIS Manila Field Office in the Philippines (July 5, 2019). These closing will continue to impact U.S. citizens and permanent residents abroad, and other immigrants in which these offices provided vital services.

1 Special thanks to USCIS HQ Liaison Committee member Jeremy Weber for his contributions to this practice alert.
2 USCIS Announces It Will Keep Seven International Field Offices Open, AM. IMMIGRATION LAWYERS ASS’N (August 09, 2019), published on AILA InfoNet at Doc. No. 19080932; Ken Cuccinelli is now serving as the Senior Official Performing the Duties of the Deputy Secretary for the Department of Homeland Security.
4 USCIS Announces It Will Keep Seven International Field Offices Open, supra note 2.
USCIS is taking a staggered approach to the closure of its field offices overseas. AILA is tracking the closure of each international office and district offices on its website. USCIS has generally provided little notice regarding the closure of a USCIS office abroad. For example, for the USCIS field offices in Ciudad Juarez and Manila, these two offices stopped accepting I-130 petitions only a few weeks before these offices officially closed. The USCIS Field Office in Ciudad Juarez, for example, permanently closed on June 30, 2019, however, this office stopped accepting applications and petitions on May 30, 2019. The USCIS Field Office in Ciudad Juarez now directs individuals to file I-130 petitions with the USCIS Dallas Lockbox or online using the USCIS website, or under exceptional circumstances with a U.S. Embassy or consulate. Similarly, the USCIS Field Office in Manila announced that it would permanently close on July 5, 2019, however, the USCIS Field Office in Manila stopped accepting applications and petitions on May 31, 2019. The USCIS Field Office in Manila now directs individuals to file I-130 petitions with the USCIS Dallas Lockbox or online using the USCIS website, or under exceptional circumstances with a U.S. Embassy or consulate.

As each USCIS international field office closes, each office had stopped accepting immigration-related petitions, applications, and forms that were previously accepted, such as I-130 petitions for immediate relatives (spouses, minor unmarried children under 21, and parents), among others. Previously with respect to I-130 petitions, USCIS international offices were typically involved with the processing of two types of I-130 petitions for immediate relatives. These were I-130 petitions filed by a U.S. citizen petitioner residing in a country in which a USCIS international office was located if there was a USCIS international field office in the country in which the petitioner resides. Second, where there was no USCIS international office where the U.S. citizen petitioner resided, the petitioner could file an I-130 petition directly with a U.S. Embassy or Consulate if there is evidence of exceptional circumstances and provided that the USCIS international field office determines that the U.S. Embassy or consulate may accept and adjudicate the case.

USCIS and the Department of State (DOS) have publicly announced how at least some of the immigration-related applications, petitions, and forms that have been previously handled by USCIS international field offices abroad will now be processed. During a meeting between AILA’s DOS Liaison Committee and the DOS Visa Office in April 2019, DOS indicated that “[DOS [6 See Tracking USCIS International Field Office Closures, AM. IMMIGRATION LAWYERS ASS’N (Jan. 31, 2020), published on AILA InfoNet at Doc. No. 19053131.  
8 Id.  
10 Id.  
11 For a complete list of filings that are generally accepted by USCIS international field offices, see e.g., Thailand - USCIS Bangkok Field Office, U.S. CITIZENSHIP & IMMIGRATION SERV. (June 28, 2019), https://www.uscis.gov/about-us/find-uscis-office/international-offices/thailand-uscis-bangkok-field-office.  
Consular Affairs] has formed a working group with the relevant offices to review and assess workload implications, relative to USCIS closures. [DOS Consular Affairs] and USCIS will work together to ensure that closures do not negatively impact services for applicants and that the work will either be able to be conducted electronically or absorbed by consular staff overseas.”

Importantly as to I-130 petitions filed abroad, as of January 31, 2020, USICS announced updated policy guidance on the acceptance and adjudication of Form I-130 petitions filed abroad. As of February 1, 2020, generally, USCIS would start to only accept I-130 petitions filed through a stateside process (e.g., USCIS Lockbox or new I-130 online filing for petitioners residing abroad), or I-130 filings directly with a U.S. consular post abroad under limited circumstances (e.g., blanket I-130 authorization or exceptional circumstances). A limited exception to this has been provided for U.S. citizen petitioners residing in the United Kingdom or Ghana filing an I-130 Immediate Relative petition who could continue to file with the USCIS Field Office in London and Accra respectively until March 31, 2020.

On January 31, 2020, USICS published updated policy guidance on I-130 filings in the USCIS Policy Manual. Similarly, DOS on January 31, 2020 announced revised guidance to consular officers on accepting I-130 petitions filed directly with consular posts in the Foreign Affairs Manual (FAM) at 9 FAM 504.2-4. The USCIS Policy Manual indicates importantly: “USCIS has delegated authority to DOS to accept and adjudicate a Form I-130 filed by a U.S. citizen petitioner for an immediate relative if the petitioner establishes exceptional circumstances or falls under blanket authorization criteria defined by USCIS. This policy applies even in countries with a USCIS presence. Without such delegation, DOS has no authority to permit a U.S. embassy or consulate to accept a local Form I-130 filing abroad.”

This is a reference to the Immigration and Nationality Act (INA) that specifically vests authority to DHS for “the administration and enforcement of [the INA] and all other laws relating to the immigration and naturalization of [foreign nationals], except insofar as [the INA] or such laws relate to the powers, functions, and duties conferred upon the President, the Secretary of State, the officers of the Department of State, or diplomatic or consular officers…” I-130 petitions are vested under DHS authority.

USCIS also has similarly shifted the adjudication of Form I-360, Petition for Amerasian, Widow(er) or Special Immigrant, for widows and widowers residing abroad away from USCIS international offices. Previously, for such cases in countries in which USCIS had an international office, such I-360 petitions could be filed with those offices. However, now USCIS guidance

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16 Id.
20 INA § 103(a)(1), 8 U.S.C § 1103(a)(1).
indicates that for these specific I-360 petitions for overseas residing widows and widowers can only be filed to the USCIS Phoenix or Dallas Lockbox or directly to a consular post abroad. Note also similar to I-130 petitions, a widow or widower I-360 petitioner residing in the United Kingdom or Ghana filing an I-360 petition is permitted to continue to file with the USCIS Field Offices in London and Accra respectively until March 31, 2020.

Also recently, as to additional clarity of the shift of USCIS duties overseas to DOS, in December 2019 USICS announced proposed revisions Form I-131A and its instructions. The proposed Form I-131A instructions indicate that USCIS plans to delegate authority for carrier documentation entirely to the DOS consular posts besides the collection of the appropriate fee for the I-131A, which will be still paid to USCIS. As of the date of this practice pointer, these proposed changes to Form I-131A by USCIS remain pending.

In summary, remaining USCIS international offices will have a much more limited public role in the adjudication of benefits or other direct services to U.S. citizens, permanent residents, or foreign nationals. At the current time, USCIS international offices continue to allow certain services that were previously provided. These services include the collection of Re-entry Permits after an approved I-131 filing with USCIS in the U.S. (note the I-131 application cannot be filed abroad by regulation). Also, international offices may collect certain limited biometrics for certain petitions or applications (generally for petitioners on I-130 petition cases, adoptions, refugees or certain T and U non-immigrants). Furthermore, biometrics may be captured upon request at a field office director’s discretion, when biometrics are scheduled at an Application Support Center (ASC) office and when there exist “rare” compelling extenuating circumstances. Also, remaining offices may still in their discretion accept certain Form I-601, Application for Waiver of Grounds of Inadmissibility, and related I-212, Application for Permission to Reapply for Admission into the United States After Deportation or Removal. These are in cases where the applicant resides in the consular district. The application must demonstrate “exceptional and compelling humanitarian circumstances that require immediate filing and adjudication” and that normal USCIS expedite criteria and processing “would be insufficient to address the urgency.” However, this remains a generally very high and limited threshold to warrant such a filing of these

22 Id.
24 Id.
26 Id.
27 Id.
applications with international offices. In practice, international offices rarely take jurisdiction for these types of I-601 and related I-212 applications.

AILA’s USCIS HQ (Benefits Policy) Committee will continue to track issues relating to the closure of USCIS International Offices, I-130 filings abroad, and will update this practice alert or provide additional practice alerts as more information becomes available. AILA members can submit reports to AILA regarding issues they are experiencing relating to USCIS international office closures or overseas I-130 filings by emailing: reports@aila.org.