

CONSULAR PROCESSING (CP) | FREQUENTLY ASKED QUESTIONS

1. What is Consular Processing?

Consular Processing refers to the process by which an individual applies for an immigrant visa at a U.S. Consulate abroad. This typically occurs after an immigrant visa petition has been approved and a visa number is available. The U.S. Consulate will schedule an interview for the applicant and family members to appear in person at the consular post.

2. When do I decide if I want to do Consular Processing or Adjustment of Status?

The I-140 specifies whether the individual will file for Adjustment of Status or Consular Processing. We select Consular Processing for all of our clients. If you later decide you want to adjust status, you may still do so if you are eligible. However, if you chose Adjustment of Status on the I-140 and then decide you want to do Consular Processing, we must file Form I-824 with United States Citizenship and Immigration Services (USCIS) requesting they notify the U.S. Consulate of your immigrant visa application. Currently, processing of I-824 forms is taking approximately one year. This is why on the I-140 we request consular processing for all our clients; it keeps your options open.

3. What are the Consular Processing steps?

Once the I-140 petition is approved USCIS will forward the approval notice and the file to the National Visa Center (NVC). If your priority date is current, the NVC will assign your file a case number and forward it to the consular post selected on the I-140. At that time, the NVC will also send our office the initial application for an immigrant visa and general instructions on supporting documentation. This initial application is referred to as Visa Packet III. We will then be required to complete and file Visa Packet III with the consular post. Once the consular post receives the application and supporting documentation, it will schedule you for an interview. The consular post will notify you of the time and date of the scheduled interview and will also provide you at that time with the second part of the application, which is referred to as Visa Packet IV. Packet IV is completed and submitted to the Consular Officer at the time of the visa interview.

4. What if my priority date is not current when the I-140 is approved?

If the I-140 is approved and the priority date is not current, the I-140 approval notice and file will be stored at the NVC until the priority date becomes current. When it becomes current, the NVC will send you Packet III and will forward the file to the designated consular post.

5. Can I remain in the U.S. while waiting for my interview at the Consulate?

You may either wait in the U.S., if in legal status, or outside the U.S.

6. Can I apply for Consular Processing at any Consulate in the world?

Typically, you must apply for Consular Processing at the U.S. Consulate in your country of nationality or country of last residence.

7. What are the advantages and disadvantages of consular processing?

Please refer to Consular Processing, <http://www.jackson-hertogs.com/?p=5820>, on our website for detailed information.

8. What will I be asked at the interview?

Generally, the consular officer will review the information you have submitted in Visa Packets III and IV. They may ask you the same questions again or may seek clarification. Typically, they will ask questions about your job, your employer and your immigration history in the U.S.

9. Can I change jobs prior to the interview?

If your immigrant visa application is based on an offer of employment, you should not change jobs prior to the interview.

10. What documents do I need to take to the interview?

All applicants must submit certain personal documents such as passports, birth certificates, police certificates, and other civil documents, as well as evidence that they will not become public charges of the United States. Please bring original documents such as degrees, diplomas, and transcripts. You will receive a list of documents you will need from the NVC, U.S. Consulate, and our office. You may also want to check the U.S. Consulate's website where you will be interviewed for information.

11. Do I need a medical examination?

United States immigration law requires immigrant visa applicants to obtain a medical exam and certain vaccinations prior to the issuance of an immigrant visa. The medical examination is performed by an Embassy-approved physician. The medical examination consists of a chest X-ray and blood test, which includes testing for HIV infection (AIDS) and venereal disease. The blood test and X-ray are generally not required of persons under the age of 15 on the date of the appointment. Pregnant women may forgo the X-ray if they so wish. However, they will be required to have an X-ray in the United States after the birth of the child. Payment and the fee for the medical examination vary among consular districts and approved physicians. You must check with each Embassy's website to obtain a list of approved physicians as well as specific instructions regarding the timing of the medical exam.

12. What happens if I am pregnant at the time of my medical exam?

There are certain tests that pregnant applicants cannot complete. Only a USCIS-approved physician can determine which of the true vaccinations are medically appropriate for the applicant, given age, medical history and current medical condition. The applicant may check with the physician at the time of the medical exam.

13. What are the vaccination requirements?

On the day of the medical examination, the physician will be required to verify that the applicant has met the vaccination requirements or that it is medically inappropriate for the applicant to receive one or more of the following vaccinations: Mumps; Measles; Rubella; Polio; Tetanus and Diphtheria Toxoids; Pertussis, Influenza Type B (HIB), Hepatitis B, Varicella, Pneumococcal, and Influenza. All immigrant visa applicants should have their vaccination records available for the panel physician's review at the time of the medical examination. If a vaccination record is not available, the panel physician will assist the applicant in determining which vaccinations may be required. Certain waivers of the vaccination requirement are available upon the recommendation of the panel physician. Only a physician can determine which of the listed vaccinations are medically appropriate for the applicant. Additional information regarding vaccinations can be found under vaccination requirements, <http://www.jackson-hertogs.com/?p=5498>, on our website.

14. What are some reasons I may be denied an immigrant visa?

The immigration laws of the United States prohibit the issuance of a visa to certain applicants. Examples of applicants who are refused visas are those who have a communicable disease such as tuberculosis or have a dangerous physical or mental disorder or are drug addicts; have committed serious criminal acts including crimes involving moral turpitude, drug trafficking, and prostitution or procuring; are terrorists, subversives, members of a totalitarian party, or former Nazi war criminals; are likely to become public charge in the United States; or have used fraud or other illegal means to enter the United States. Former J-1 exchange visitors subject to the home residency requirement must live abroad 2 years and physicians who intend to practice medicine must pass a qualifying exam before receiving immigrant visas. If you believe that any of these situations may apply to you, please contact your attorney.

Please note that willful misrepresentation of a material fact in connection with a visa application may also result in a permanent ban to enter the United States, or deportation if already admitted into the United States.

15. How much is the visa fee?

The cost of each formal immigrant visa application is \$335 or the equivalent in foreign currency. If you have already paid the application fee of \$260 to the National Visa Center, the balance visa issuance fee of \$65 must be paid locally abroad. Fees must be paid by or on behalf of each intending immigrant regardless of age, are not refundable and should not be sent to the consular office unless specifically requested.

16. What happens after the immigrant visa is approved?

Once the immigrant visa is approved, generally on the same day of the interview or within a few days of the interview, it is normally valid for travel to the United States for six months from the date on which it is issued. The validity period cannot be extended. If, for any reason, the applicant is unable to use the visa, it should be returned to the Embassy with a cover letter indicating whether or not the holder wishes to immigrate to the United States. Consideration of the issuance of a new visa will only be given if the individual is able to establish that the reason for not traveling to the U.S. during the validity period of the visa was due to circumstances beyond his/her control. A child born after the issuance of an immigrant visa will not need a visa to

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accompany the parent provided they both travel within the period of validity of the visa. A copy of the child's long-form birth certificate showing the name of the parent must be carried for presentation to a U.S. immigration official at the port of entry, together with a valid travel document for the child.

17. What happens once I enter the U.S. as an immigrant visa holder?

The immigrant visa is surrendered to an officer of U.S. Customs and Border Protection at the port of entry, at which time the holder will be given the forms required to complete an application for an Alien Registration Receipt Card (ARC), commonly known as a Green Card. That card will normally be mailed to the address of your final destination in the United States at a later date. Your passport will be stamped to show that you have been admitted as a Lawful Permanent Resident and that an application for an ARC is being processed. If you depart the United States before receiving the ARC, you may reenter the U.S. on the stamp in your passport. Should the stamp expire while you are abroad, you should contact the U.S. Embassy or Consulate where you applied for your immigrant visa.

18. Do my spouse and family have to enter the U.S. at the same time that I do after the interview?

Your family must either travel with you when you first enter the U.S. following the interview or they can enter after you.

19. How long will it take for me to get my Green Card in the mail?

Processing times vary, but it is currently taking approximately 6-12 months from application to receive the card.

20. What is a sailing permit?

The tax law requires almost all aliens departing the U.S. (except those with B visas) to obtain a certificate of compliance with U.S. tax obligations. This certificate of compliance is commonly called a "sailing" or "departure" permit. You use IRS Form 2063 to apply for it. To obtain a sailing permit, you must apply no earlier than 30 days and no later than two weeks before departure by filing with the IRS either a Form 1040C (if he or she has or expects to have taxable income for the current year) or Form 2063 (if he or she had or expects to have no taxable income for the current year). Application may be made at a district IRS office nearest the place of employment or departure. Generally, an alien departing the U.S. must pay all taxes currently due as well as all back taxes, unless he or she can show that he or she intends to return to the U.S. and satisfy his or her tax liability. The sailing permit requirement applies to resident aliens as well as nonresident aliens. Please direct additional questions regarding sailing permits to your accountant or the Internal Revenue Service. Finally, please note that the sailing permit requirement is not uniformly enforced and that it is rarely an issue at immigrant visa interviews.