

# A to Z's of Consular Processing: Trends, Strategies and Pitfalls for IV and NIV

Rosemary Vega, Law Office of Rosemary Vega PLLC - Houston, TX

Melle Fabian, Berry Appleman & Leiden LLP - Austin, TX

1



## Consular Processing Strategy

- **WHEN to choose consular vs. in-country filing?**
  - NIV considerations
  - IV considerations

2

# Consular Processing

## STEPS:

1. Prerequisite to Visa Issuance
2. Identifying the correct U.S. Consulate
3. Complete the DS-160 nonimmigrant visa application
4. Schedule an appointment and determine local U.S. Consular Requirements
5. Assemble the visa application and determine the visa fees
6. filing the application: interviews (or waiver), approvals, and anticipate delays
7. Using the visa to enter the U.S. and additional entry requirements and considerations

3

## Step 1

Prerequisite to Visa Issuance: I-797 Approval (unless presenting a nonimmigrant visa directly at a U.S.

Consulate or port of entry, i.e. TN, E, or some L visa applicants)

- no I-94 if consular notify

RECEIPT # I-1448-12345		DATE/TIME I-129
RECEIVED DATE April 20, 2011		RECEIVED BY PETITIONER FOR A NONIMMIGRANT WORKER
RECEIVED BY PERRY BAIL	DATE/TIME July 26, 2011	RECEIVED BY THE EMPLOYER
NUMBER OF PAGES 1 of 1	CLASSIFICATION TRAVELER	CLASSIFICATION
PETITIONER NAME JEREMY FUDGE		NOTICE TYPE: Approval Notice
PETITIONER ADDRESS BERRY APPLEMAN & LEIDEN LLP 3232 MCWHINNEY AVE STE 500 DALLAS TX 75204		CLASS: LIA
		VALID FROM 08/18/2011 TO 08/17/2013

The above petition and extension of stay have been approved. The status of the named foreign worker(s) in this classification is valid as indicated above. The foreign worker(s) can work for the petitioner, but only as detailed in the petition and the period mentioned. Any change in employment requires a new petition. Since this employment authorization stems from the filing of this petition, separate employment authorization documentation is not required. Please contact the IIR with any questions about tax withholding.

The petitioner should keep the upper portion of this notice. The lower portion should be given to the worker, or if the worker is not in the U.S., the left part is for his or her records. A person granted an extension of stay who leaves the U.S. must notify USCIS of a new visa before returning. The left part can be used in applying for the new visa. If a visa is not required, he or she should present it, along with any other required documentation, when applying for Form I-94. *Applicator for Action on an Approved Application of Petition.* With this notice to request that we verify a consulate, port of entry, or port of entry office of this approval.

The approval of this visa petition does not guarantee that the alien beneficiary will subsequently be admitted to the United States, or for an extension, change, or adjustment of status in the United States, or for an

THIS FORM IS NOT A VISA AND MAY NOT BE USED IN PLACE OF A VISA.

Please see the additional information on the back. You will be notified separately about any other cases you filed.

U.S. CITIZENSHIP & IMMIGRATION SVCS  
VERMONT SERVICE CENTER  
75 LOWER WELDEB STREET  
SALISBURY VERMONT 05475-1001  
Customer Service Telephone: (860) 375-5283  
Form I-797A (Rev. 09/07/93)

551925697 11  
Receipt Number I-1448-12345  
Immigration and  
Naturalization Service  
CLASS LIA  
Departure Record Petitioner: US EMPLOYER

The above petition has been approved, and notification has been sent to the listed consulate. You may also send the tear-off bottom part of this notice to the worker(s) to show the approval. Please contact the consulate with any questions about visa issuance. **THIS FORM IS NOT A VISA AND MAY NOT BE USED IN PLACE OF A VISA.**

4

## Step 2

- Identifying the correct U.S. Consulate
- Third country national (TCN) considerations
- Special carve-out for Canadians



## Step 3 – DS-160

### Complete the DS-160 nonimmigrant visa application:

- Prerequisite before booking visa appointment
- Common questions
- Disclose social media handles
- Dependents must complete one separately
- See DoS for sample and additional resources

## Step 4

### Schedule an appointment and determine local U.S.

#### Consular Requirements

- Timing Updates (processing times are improving until there is another rush over the holidays)
- Interview Waiver updates
- Portal and Website updates
- Expedite Requests

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: A to Z's of Consular Processing

Also available as part of the eCourse

[2023 eConference on Immigration and Nationality Law](#)

First appeared as part of the conference materials for the  
47<sup>th</sup> Annual Conference on Immigration and Nationality Law session  
"A to Z's of Consular Processing"