

Practice Pointer Update: Consular I-130 Filing Procedures

USCIS has delegated authority to the Department of State (DOS) to accept and adjudicate an I-130 petition 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 practice pointer discusses the circumstances under which consular filings are accepted and how to prepare a successful petition.

Note: On August 1, 2025, the USCIS Policy Manual was updated to clarify that this delegated authority to DOS is only for a “clearly approvable” Form I-130 filed abroad by a U.S. citizen, along with other changes.¹ This Practice Pointer has been updated to reflect the guidance as of August 1, 2025.

The USCIS Policy Manual states:

If a consular officer in a U.S. embassy or consulate encounters an individual case that the officer believes needs immediate processing of a Form I-130 filed by a U.S. citizen petitioner for an immediate relative, the consular officer may, but is not required to, accept the local filing in exceptional accordance with the guidance below. If DOS accepts a petition, USCIS must rec[stet] information about the basis for local acceptance.

Exceptional Circumstances

Examples of exceptional circumstances include, but are not limited to:

- Military emergencies – A U.S. citizen military service member petitioner, who is abroad but who does not fall under the blanket authorization for U.S. citizen service members stationed abroad on military bases, becomes aware of a new deployment or transfer with little notice. This exception generally applies in cases where the U.S. citizen service member is provided with exceptionally less notice than normally expected.
- Medical emergencies – A petitioner or beneficiary is facing an urgent medical emergency that requires immediate travel.
- Threats to personal safety – A petitioner or beneficiary is facing an imminent threat to personal safety. For example, a petitioner and beneficiary may have been forced to flee their country of residence due to civil strife or natural disaster and are in precarious circumstances in a different country outside of the United States.
- Close to aging out – A beneficiary is within a few months of aging out of eligibility.
- Petitioner has recently naturalized – A petitioner and beneficiary have traveled for the immigrant visa interview, but the petitioner has naturalized and the beneficiary require(s) a new petition based on the petitioner’s citizenship.
- Adoption of a child – A U.S. citizen petitioner has adopted a child abroad and has an imminent need to depart the country. This type of case should only be considered if the adoptive parent petitioner(s) has a final adoption decree on behalf of the child and has had legal custody of and jointly resided with the child for at least 2 years.

¹ USCIS Policy Manual, Volume 6: Immigrants, Part B, Family-Based Immigrants, Chapter 3, Filing [6 USCIS-PM B.3] U.S. CITIZENSHIP & IMMIGRATION SERV. (Aug. 1, 2025). <https://www.uscis.gov/policy-manual/volume-6-part-b-chapter-3>. USCIS defines “clearly approvable” as “generally one that includes sufficient primary evidence to establish the status of the petitioner and the qualifying relationship. See 8 CFR 204.2(1)(2).

- Short notice of position relocation – A U.S. citizen petitioner, living and working abroad, has received a job offer in or reassignment to the United States with little notice for the required start date.

Discretion

The Policy Manual notes that the list of examples is not exhaustive and that DOS may exercise its discretion to accept “clearly approvable” local Form I-130 filings for other exceptional circumstances; however, USCIS requires such filings to be “truly urgent and otherwise limited to situations when filing with USCIS online or domestically with an expedite request would likely not be sufficient to address the time-sensitive and exigent nature of the situation.”

Practice Tip: Some posts may be more receptive to accepting matters outside of the list of examples than others. For example, some posts have accepted short-notice position relocation of the I-130 beneficiary as the basis for an exceptional circumstance filing (e.g. Prague and Auckland), while other posts (e.g. London) will only accept short-notice relocation of the I-130 petitioner. It can be helpful to provide a declaration from the U.S. citizen petitioner with *all* of the urgent reasons to support an exceptional circumstances filing (e.g. possible job loss if the transfer is not completed immediately; the effect on the U.S. citizen family such as loss of medical coverage; aging or unwell parents needing the petitioner and/or beneficiary in the United States to supervise medical care).

In addition to the examples of exceptional circumstances noted above, USCIS retains authority to issue blanket authorization for DOS to exercise its discretion to accept locally filed Form I-130 immediate relative petitions for certain filing categories. Petitioners in these categories do not need to reside in the country of the U.S. embassy or consulate, but they must meet the blanket exception criteria described below in order to file a Form I-130 with DOS.

Temporary Blanket Authorizations for Large Scale Disrupting Events

USCIS may authorize a blanket authorization for DOS to accept “clearly approvable” Form I-130 immediate relative petitions from petitioners directly affected by prolonged or severe civil strife or a natural disaster. USCIS may provide this authorization to assist those directly affected by the disruptive event, not to speed up the process for those petitioners who are not directly affected.²

U.S. Military and Certain U.S. Government Personnel Stationed or Assigned Abroad

USCIS has granted DOS blanket authorization to accept “clearly approvable” Form I-130 immediate relative petitions filed by U.S. citizen military service members stationed at U.S. military bases abroad on official orders, as well as U.S. citizens who are U.S. government (USG) employees assigned to a U.S. mission abroad under Chief of Mission authority, or at an office of the American Institute of Taiwan. This blanket authorization does not apply to service members assigned to non-military bases, such as U.S. embassies, international organizations, or civilian institutions, or to service members on temporary duty orders. Qualifying petitioners do not need to establish exceptional circumstances. The petitioner and

² See, e.g., *Local Filing of Form I-130 Petitions Filed by U.S. Citizens on Behalf of Afghan, Ethiopian, and Ukrainian Immediate Relatives Fleeing Conflict*, AILA Doc. No. 22031810 (March 17, 2022).

beneficiary do not both have to be physically present in the consular jurisdiction where the petition is filed. This blanket authorization is not time-limited, but USCIS may revoke the authorization if warranted.

When DOS is Not Authorized to Accept and Adjudicate Form I-130

The USCIS Policy Manual specifically precludes DOS from exercising its discretion to accept local filings in certain scenarios:

- When a petitioner based in the United States seeks to travel and file abroad in order to expedite processing;
- When the petitioner has already filed a Form I-130 domestically for the same beneficiary.

Practice Tip: It may be possible to withdraw a USCIS-filed I-130 and then refile under the provisions described above with a U.S. Embassy. The major challenge to this approach is that USCIS takes many months to process withdrawal requests, and not all consular posts will accept a case in this situation. Engaging Congressional assistance to request USCIS to process the withdrawal urgently can help.

The Foreign Affairs Manual (last revised on September 27, 2024) at 9 FAM 504.2-4(B)(1) provides guidance to consular officers that mirrors the language in the USCIS Policy Manual, describing conditions for acceptance of petitions filed under either USCIS authorized exceptional circumstances or blanket authorization.³

Filing with the Consulate

As with all consular filings, the intake procedure for consular filed I-130 petitions is post-specific. Therefore, it is important to start by reviewing the procedures for exceptional circumstance filings or blanket authorization filings on the consular post's website, or by contacting the post for information via designated channels such as the post's navigator.⁴

For example, in Australia, the mission has a very specific process related to exceptional circumstance requests.⁵ A request for exceptional circumstances consideration is first submitted by email to the consulate with jurisdiction over the petitioner (Sydney, Melbourne, or Perth) with a signed I-130 petition, and an explanation and evidence of the merits of the exceptional circumstance request. The consulate will then approve the filing of the I-130 petition and, if so, the petitioner is required to attend an appointment in person to file the full I-130 petition and supporting documents at the consulate. If the case is clearly approvable, the consular officer will approve the petition, and the case is transferred for immigrant visa processing at the immigrant visa unit in Sydney on an as-needed basis.

The Embassy in London requires the submission of an initial request through their online contact form.⁶ The form requires basic petition information and the reason for the request. In response, the Embassy sends an email with a request for documents and information. The documents and information they

³ 9 *Foreign Affairs Manual* (FAM) 504.2-4, U.S. DEPT. OF STATE (Sept. 27, 2024), <https://fam.state.gov/FAM/09FAM/09FAM050402.html>.

⁴ Links to consular post websites can be found at <https://www.usembassy.gov/>

⁵ *Filing a Petition in Australia – Exceptional Circumstances*, U.S. Embassy & Consulates in Australia, U.S. DEPT. OF STATE, https://au.usembassy.gov/filing-a-petition-in-australia-exceptional-circumstances/?_ga=2.133462344.71990342.1736815000-600955480.1704725012 (last accessed Jan. 13, 2025).

⁶ <https://uk.usembassy.gov/family-immigration-i-130-exceptional-circumstances-request-form/>.

request generally includes passport biographic pages for the petitioner and beneficiary, as well as evidence supporting the exceptional circumstances basis of the request. Once the Embassy reviews and approves, they send an appointment for the US citizen to appear in person to submit the I-130 petition.

Note that not all consular posts have a clear procedure for such filings. It may take research, inquiries to the consular post, or asking local/regional AILA members to determine how such cases are handled locally at a specific consular post.

Physical Presence and Residence Requirements

A predicate to filing an I-130 petition with a consular post is that the petitioner and the beneficiary must be physically present in the consular district. The petitioner will be required to appear in person at the consular post to file the I-130 petition and establish eligibility. The beneficiary must be eligible to remain in the country throughout the processing time of the visa at the consular post.

In addition, although a petitioner filing an I-130 abroad is not required to be a resident of the consular district, residence is a factor in both the exceptional circumstances and blanket filing authorizations described below.

Acceptance of I-130 by Post is Not Guaranteed

If DOS declines to accept a local filing, DOS should inform the petitioner of its decision and of the process for filing the Form I-130 at a USCIS lockbox or online in accordance with the USCIS filing instructions. The petitioner does not have the right to appeal, motion, or otherwise request reconsideration of a USCIS or DOS decision to decline acceptance of a local filing. Although this local filing process is designed to facilitate expedited processing of cases abroad in exceptional circumstances, it is not the only way to file a petition or seek expedited adjudication. If not permitted to file locally abroad, a petitioner may still file a Form I-130 petition with a USCIS lockbox or online and may request expedited processing for that petition in accordance with the published USCIS expedite process and criteria.

Adjudication of Consular-Filed I-130s

DOS may approve only those Form I-130 petitions that are clearly approvable. If DOS determines a petition is not clearly approvable, DOS forwards the petition to the USCIS office designated to adjudicate the not clearly approvable petitions. This USCIS office is generally a USCIS service center.

Upon approval of the consular-filed I-130, the post creates the immigrant visa application file and advises the beneficiary of the process to prepare the DS-260 and assemble the required civil documents. The National Visa Center is not involved in the processing of visas based on consular-filed I-130s.

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