

The Return of Stateside Visa Processing

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For the first time in almost 20 years, the U.S. Department of State (DOS) may resume issuing nonimmigrant visas within the United States later this year. Reports indicate that a pilot program will allow stateside renewal of H-1B and L-1 visas.

The Department of Homeland Security has exclusive jurisdiction within the United States over the adjudication of petitions for immigration benefits, as well as the inspection and admission of persons seeking entry to the United States. DOS, however, has exclusive authority to issue visas. Currently, a visa may be issued only at a U.S. embassy or consulate located outside the United States.

The ability to renew a visa within the United States is commonly referred to as “stateside processing.” This option provides an efficient means for nonimmigrants to renew their visa without the need to plan international travel around appointment availability or time uncertainties associated with a visa application filed at a U.S. consulate abroad.

The suspension of routine visa processing at U.S. consulates during the early days of the COVID-19 pandemic and the resulting extensive backlog of appointments highlighted the challenges inherent in the system that relies on personal appearance at a consulate. Partly in response to these conditions, DOS introduced or expanded discretionary authority of consular officers to waive the personal appearance of nonimmigrant visa applicants under certain conditions. For example, through December 31, 2023, the visa interview may be waived for certain first-time and renewing nonimmigrant visa applicants who previously were issued any type of visa or previously traveled under the Visa Waiver Program, who have no unresolved refusal of a visa, and who currently have no ineligibility. In addition, applicants renewing a visa in the same classification within 48 months of the prior visa’s expiration also are eligible for interview waiver. This waiver option is in place indefinitely.

Stateside visa processing would be a logical extension of the interview waiver process. Regulations already provide discretionary authority to issue visas to certain nonimmigrants present in the United States who are seeking to renew a visa in the same category. Prior to July 2004, DOS operated a stateside visa process. That program was suspended in 2004 due to new security measures requiring biometrics from visa applicants. At the time, DOS reported that it was not feasible for it to gather biometrics within the United States. As illustrated by the current broad use of interview waiver authority, accessing and reutilizing biometrics previously captured no longer is an obstacle to issuance of a visa without the presence of the applicant.

Nonimmigrants with H-1B, H-4, L-1, and L-2 visas who may utilize stateside visa processing should remember that the validity of their presence within the United States is governed not by the visa's expiration date, but by the Form I-94 admission record issued by Customs and Border Protection at the port of entry.

The documentation requirements, application procedures, and expected timeline for stateside visa processing are not yet known.

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National Law Review, Volume XIII, Number 45

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