

Immigration Law

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## Changes in Visa Issuance Procedures

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In the past, applicants for visas at embassies and consulates (“posts”) abroad had to hand-carry their original I-797 Approval Notices to their interview appointments. The Department of State, in an effort to reduce fraud and enhance security, has recently created the PIMS record check system to provide posts with official notification of H, L, O, P and Q petition approvals. Now, rather than relying on the original Approval Notice, posts must confirm petition approval in PIMS before issuing a visa.

A petition approval is entered into PIMS by the State Department’s Kentucky Consular Center (KCC) after it receives notice from the USCIS Service Centers of approval. PIMS contains a record of all approved petitions entered by the KCC since 2004. Unfortunately, petition approvals requesting a change of status, extension of stay or amendments have *not* been entered into PIMS by the KCC because USCIS has not routinely notified the KCC of these petition approvals. USCIS and the Department of State have now agreed that *all* petition approvals will be forwarded to the KCC for entry into PIMS.

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While this provides a solution going forward, the obvious problem is previously approved amendment, extension and change of status petitions which have not, and will not, be entered into PIMS. Where no record is found in PIMS, posts have been instructed to email the KCC and request verification of the petition approval. Unfortunately, this extra check will result in visa issuance delays since posts will have to wait for verification from the KCC. Since the State Department is aware of the issue, it has instructed all posts to check PIMS prior to the interview and begin the email verification check with the KCC, if necessary.

Employers should be aware that all employees traveling abroad for visa issuance may be faced with a range of delays in visa approval and issuance. A delay is much more likely if the visa applicant’s extension, change of status or amended petition was approved prior to September 2008. The length of a PIMS delay is difficult to predict. We are seeing delays of several weeks at some posts. Because a visa applicant may only be advised that the application is pending due to “administrative processing” (the same language used when a security check is pending), we are advising foreign nationals to ask at their visa interview whether PIMS has provided confirmation of the petition approval. This will not alleviate any delay, but it will confirm that the delay in visa issuance is, or is not, a result of a PIMS issue.