

# Authenticating U.S. Documents for Use in China During COVID-19

[CHINA REGULATION WATCH](#)<sup>1</sup>

August 25, 2021

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## 1. Introduction

Companies or individuals submitting U.S. issued or notarized documents to authorities in the People’s Republic of China (“[China](#)”) generally need to complete a cumbersome authentication procedure to demonstrate to authorities in China that the documents are genuine. This authentication procedure involves multiple steps, including with the U.S. issuing authorities and China’s Embassy or consulates in the U.S. During the COVID-19 pandemic, this procedure has become more difficult since many of the relevant offices are closed to the public or are operating under new constraints. This China Regulation Watch provides an overview of the authentication procedure for U.S. documents that will be submitted to authorities in China, including changes to those procedures due to the COVID-19 pandemic.

## 2. General Authentication Procedures

Before U.S. documents can be submitted to government authorities in China, China’s Embassy or consulates in the U.S. will first need to authenticate the relevant documents. China’s Embassy or consulates in the U.S. will, however, only authentic documents issued by select U.S. government offices, such as the Secretary of State’s office of one of the U.S. states. Some documents, however, need to first be notarized by a notary public before the relevant Secretary of State’s office can authenticate them. In addition, for documents authenticated in certain U.S. states on the East Coast, such as Delaware, there is an additional step involving the U.S. Department of State in Washington D.C. before the documents are authenticated by China’s Embassy, as opposed to one of China’s consulate offices. The exact steps required for each document depend on the kind of document being authenticated, and the location where the document was executed or issued.

### Document Classification

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Documents that are required to be submitted to authorities in China can generally be classified into two categories: (i) public documents issued by official U.S. government authorities (“Public Documents”), and (ii) documents executed or provided by parties other than official U.S. government authorities (“Private Documents”).

Public Documents are usually provided by a state office that issues official records. These Public Documents can generally be submitted directly to the Secretary of State’s office in the state where the documents were issued. The Secretary of State’s office will then authenticate the signature or seal of the state office that issued the document.

Private Documents generally need to be signed and notarized by a notary public. The notary public verifies only the identity of the individual who signed the document, not the truthfulness, accuracy or validity of the document. The notarized Private Document can then generally be submitted to the Secretary of State’s office in the state where the notary public is registered, in order to authenticate the signature or the seal of the notary public. As discussed below, if the notary public is registered on the county level, as opposed to the state level, an additional authentication step with the clerk of the county court is generally required.

#### Jurisdiction Rules for China’s Embassy and Consulates

In addition to China’s Embassy in Washington D.C., China maintains four consulates in the U.S., located in New York, Chicago, San Francisco and Los Angeles. The Embassy and each consulate have jurisdiction over several U.S. states with respect to document authentication.<sup>2</sup>

As mentioned above, for states under the jurisdiction of China’s Embassy, which includes Delaware, Kentucky, North Carolina, and Virginia, documents already certified by the Secretary of State’s office from those respective states must first be submitted to the U.S. Department of State in Washington D.C. for authentication. Then the relevant document can be delivered to China’s Embassy for final authentication. For states under the jurisdiction of one of the four consulates, documents certified by the relevant Secretary of State’s office can be directly delivered to relevant consulate for final authentication.

### **3. Specific Authentication Requirements**

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<sup>2</sup> Additional information about which states are under the jurisdiction of China’s Embassy or various consulates can be found [here](#). Please note that the consulate in Houston was shut down in July 2020, and China’s Embassy in Washington D.C. is currently responsible for the states previous under the jurisdiction of the Houston consulate. See relevant news reports [here](#).

## Notarization of Private Documents

Private Documents, such as a copy of a U.S. passport, a power of attorney, various agreements, and other business documents, often need to be notarized by a notary public before beginning the authentication process. Before notarizing a document, it is important to confirm that document complies with the requirements of the relevant government authorities in China to whom the document will eventually be submitted. Notary publics often require the person who will sign the document to visit the notary's office and sign the document in person. In recent years, however, some mobile notaries offer to travel to your location to notarize documents.

In the U.S., notary publics are generally commissioned at the state level or the county level. In California, notaries are commissioned by the Secretary of State's office, and thus notarized documents can be directly certified by that office. In some states, like New York<sup>3</sup> and Georgia,<sup>4</sup> notaries are commissioned at the county level. As a result, notarized documents must first be certified by the clerk of the county court where the notary is registered, and then submitted to the Secretary of State's office.

## Application for Public Documents

The first step of the authentication process for Public Documents is to apply for an original certified copy of the relevant document from the government office that issues the document. For documents such as a certificate of incorporation, articles of incorporation, birth certificates, divorce decrees and court judgements, you can apply for an original or certified copy at the relevant court or department that issued the document.

## Authentication by Secretary of State's Office

Notarized Private Documents or certified Public Documents can generally be mailed with a request form, a check or money order and a prepaid return envelope to the relevant Secretary of State's office. Processing times for document authentication at the various Secretary of State's offices differs by state.

## Authentication by U.S. Department of State

For documents that will be submitted to China's Embassy for authentication, the documents must first be mailed with a request form, a check or money order and a return envelope to the Office of Authentication at the U.S. Department of State in

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<sup>3</sup> Please find more details [here](#).

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Washington D.C.<sup>5</sup> The average processing time for mail-in requests is approximately twelve business days from the date of receipt, but due to the COVID-19 pandemic it may take as long as five to six weeks to process a document authentication request.

### Authentication by China's Embassy or Consulates

After documents are authenticated by a Secretary of State's office or the U.S. Department of State, the documents can be submitted to China's Embassy or to the China consulate with jurisdiction over the state where the documents were executed or issued.

China's Embassy and consulates require the following documents to be submitted together with the documents to be authenticated:

- An application form for consular legalization;<sup>6</sup>
- A copy of each document to be authenticated;<sup>7</sup>
- Identity document of applicant;<sup>8</sup> and
- Other documents required by the Embassy or consulate.

## **4. COVID-19 Pandemic Emergency Measures**

Prior to the COVID-19 pandemic, China's Embassy and consulates required applicants to submit document authentication applications in person. Beginning in April 2020, however, China's Embassy and consulates in the U.S. closed in person counter service. Now China's Embassy and consulates accept document authentication applications by mail for emergencies or other special cases. As a result, the Embassy and consulates require applicants to provide an urgent request statement with their application that explains the document authentication circumstances. It is not clear what circumstances qualify as urgent in light of the ongoing COVID-19 pandemic. Based on our recent experience, however, applications for authenticating documents to establish a new business entity in China or maintain an existing business entity in China will be accepted.

Unlike the mail-in process of many Secretary of State's offices and the U.S. Department of State, China's Embassy and consulates require applicants to first submit all required documents for pre-review by email.<sup>9</sup> After the documents are

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<sup>5</sup> Mailing address: U.S. Department of State, Office of Authentications, CA/PPT/S/TO/AUT, 44132 Mercure Cir. PO Box 1206, Sterling, VA 20166-1206

<sup>6</sup> This [application form](#) can be downloaded from the websites of China's Embassy or consulates.

<sup>7</sup> Because the original authenticated documents will be returned to the applicant, the Embassy or consulate requests a copy of each document for their internal records.

<sup>8</sup> Identity document can include a passport or a driver's license for individual applicants. If the applicant is a company, documents that can prove the identity of its legal representative (generally the company president or chief executive officer), like a statement of information, should be submitted for this purpose.

<sup>9</sup> The email address for submitting online applications to China's Embassy and consulates is posted on their respective websites. Email address for China's Embassy: [visaoffice.dc@gmail.com](mailto:visaoffice.dc@gmail.com). Email address for New York consulate: [visaoffice.ny@gmail.com](mailto:visaoffice.ny@gmail.com). Email address for San Francisco consulate: [authentication.sf@gmail.com](mailto:authentication.sf@gmail.com).



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approved by email, the documents can be mailed to China's Embassy or consulates in accordance with their often detailed instructions. For example, in our recent experience with the San Francisco consulate, the relevant official provides a reference number when confirming that the documents were pre-approved by email. We then needed to include that reference number when we mailed the documents to the consulate, otherwise the documents would have been rejected.

We caution applicants to be prepared for possible setbacks during the document authentication process. China's Embassy and consulates may reject applications for a variety of reasons, since they have discretion to request additional documents or support materials. In addition, when submitting an application by mail, there is also a risk of the application being lost in the mail or after receipt. As a result, we encourage readers to budget additional time for the document authentication process.