

New Visa Rules to Increase Scrutiny of Visa Applicants

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A series of cables (or memorandums) released by the Department of States reflect a renewed focus on increasing vetting of US visa applicants at consular posts around the world by adding extra layers of security checks. The 2 cables (or memorandums) were intended to implement Trump's second Executive Order imposing a travel ban. The cables were released prior to the temporary restraining order (TRO) prohibiting the government from implementing the travel ban. A third cable was issued subsequent to the TRO, ordering consular posts to halt implementation.

The new procedures would have broadly increase scrutiny of visa applicants. The rules do not apply to citizens or nationals of countries participating in the VWP. The program allows eligible travelers to be admitted for 90 days without first obtaining a visa. Individuals travelling in official capacity to the US with an A/G/C-2/C-3/NATO visa are also exempt.

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The memos instruct consular posts to develop a list of criteria identifying sets of post applicant populations warranting increased scrutiny. Consular officers are directed to identify visa applicants who fall within the population set and must ask additional questions to those who are eligible for a visa.

Under the new rules, interviewing officers have also the discretion to send a Security Advisory Opinion (SAO) request. A Security Advisory Opinion is generated when a visa issuing post is requesting that the US Department of State completes a background security check on a US visa applicant. SAO clearances could take months to process.

The cables also require a mandatory Security Advisory Opinion for all visa applicants (other than travelling in official capacity with an A/G/C-2/C-3/NATO visa) who are applying with a passport issued by Iran, Syria, Yemen, Sudan, Somalia, and Libya and who are at least 16 years of age and less than 65 years of age. Consular officers are also required to ask additional questions concerning to travel, work, address history, social media including whether the applicant was ever present in the territory controlled by ISIS. The cables make clear that officers may deny an application in order to solicit the additional information in a follow-up interview.

Mandatory social media checks for citizens of Iran, Syria, Yemen, Sudan, Somalia, and Libya and SAO for Iraqi nationals must be performed if the consular officers find that the applicants were ever present in the territory occupied by ISIS. The posts were also instructed to review all immigrant visa issuances of applicants applying with a passport from Iran, Syria, Yemen, Sudan, Somalia, and Libya.

It is improbable that the visa adjudication procedures will change following the release of these cables. US visa applicants already undergo a rigorous vetting process. Immigration lawyers warned that the new security procedures will likely cause long processing delays and result in many denials.

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