Legal Briefs

From the Fort Knox Legal Assistance Office

Visiting the U.S.

B Visas

Overview

Generally, a citizen of a foreign country who wishes to enter the United States must first obtain a visa. The foreign citizen can either obtain a nonimmigrant visa for temporary stay or an immigrant visa for permanent residence. The visitor visa is a nonimmigrant visa for persons desiring to enter the United States temporarily for business (B-1) or for pleasure or medical treatment (B-2). Persons planning to travel to the U.S. for a different purpose, such as students, temporary workers, crewmen, journalists, etc, must apply for a different visa in the appropriate category. Visas take time, so apply well in advance of your needs. You can obtain the proper forms from the American Embassy or consulate nearest your place of residence or the State Department Website. An interview will be conducted and upon successful completion a visa will be granted. Times may vary according to individual cases so be sure to allow for time before your visit to the U.S.

Qualification

The presumption in the law is that every visitor visa applicant is an intending immigrant. Therefore, applicants for visitor visas must overcome this presumption by demonstrating that:

- The purpose of their trip is to enter the U.S. for business, pleasure, or medical treatment;
- They plan to remain for a specific, limited period; and
- They have a residence outside the U.S. as well as other binding ties which will insure their return abroad at the end of the visit.

Port of Entry

Applicants should be aware that a visa does not guarantee entry into the United States. Immigration authorities have the authority to deny admission at the port of entry. If entry is granted, the Form I-94, Record of Arrival-Departure, which notes the length of stay permitted, is stamped. Those visitors who wish to stay beyond the time indicated on their Form I-94 must contact the USCIS to request an extension.

Visa Waiver Program

Overview

The Visa Waiver Program (VWP) enables nationals of certain countries to travel to the United States without obtaining a visa for stays of 90 days or less. Not all countries participate in the VWP, and not all travelers from VWP countries are eligible to use the program. VWP travelers are screened prior to admission into the United States.

Countries

Currently, 27 countries participate in the Visa Waiver Program they are:

Andorra	Iceland	Norway	Belgium	Finland	Luxembourg
Australia	Ireland	Portugal	Brunei	France	New Zealand
Austria	Italy	San Marino	Denmark	Germany	Spain
Monaco	Japan	Singapore	Sweden	The U.K.	Switzerland
Netherlands	Liechtenstein	Slovenia			

Nationals of the 27 countries participating in the Visa Waiver Program may use VWP if:

- The purpose of their stay in the United States is **90 days or less** for tourism; and
- They present a machine-readable passport (MRP) valid for six months past their expected stay in the U.S. (unless country-specific agreements provide exemptions); and
- Other passport requirements may apply; and
- They have complied with the conditions of previous admissions under the Visa Waiver Program, and have not been found ineligible for a U.S. visa; and
- If arriving by air or sea, they are traveling on an approved carrier and have a return trip ticket to any foreign destination other than the U.S. or adjacent islands*; or
- If arriving by land, they can demonstrate the intent to stay 90 days or less in the U.S. and sufficient funds to support themselves in the U.S.

* VWP travelers who have been admitted under the Visa Waiver Program and who make a short trip to Canada, Mexico or an adjacent island generally can be readmitted to the U.S. under the VWP for the original admission period. See the Department of Homeland Security's Customs and Border Protection (CBP) website for additional details. Also VWP nationals resident in Mexico, Canada or adjacent islands are generally exempted from requirements to show onward travel to other foreign destinations.

Visa Application

Travelers who do not meet these conditions must apply for a visa. In particular, a visa must be requested if the traveler:

- Wants to remain in the U.S. for longer than 90 days, or envisions that they may wish to change their status (from tourism to student, etc.) once in the United States;
- Wants to work or study in the United States, wants to come to the U.S. for other purposes not allowed on a visitor visa, or intends to immigrate to the U.S.;
- Does not have a machine-readable passport (MRP).
- Intends to travel by private aircraft or other non-signatory air or sea carriers to the U.S.;
- Has been refused a visa or admission to the U.S. before, or did not comply with the conditions of previous VWP admissions; or
- Has a criminal record or other condition making them ineligible.

Port of Entry

Travelers should be aware that by requesting admission under the Visa Waiver Program, they are generally waiving their right to review or appeal an inspecting officer's decision as to their application for admission at the port of entry. Likewise, if the traveler is later found to have violated the conditions of admission under the Visa Waiver Program, they do not have the right to contest a removal order.

If you have any questions concerning these matters, please call the Legal Assistance Office for an appointment at (502) 624-2771 or visit our website at www.knox.army.mil/center/sja/. Our hours of operation are Monday, Tuesday, Wednesday and Friday, 0900 – 1600, and Thursdays 1300-1600. The Fort Knox Legal Assistance Office is located in Building 1310, Pike Hall at the corner of Knox and Third Street.