

Immigration Tips for Your Next Business Visit to the United States

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Immigration

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You have your ticket and your itinerary for an important business trip. You've planned your meetings down to the last detail. This article contains tips that can help you make sure your trip through U.S. immigration is the least of your worries.

Make sure your passport is valid for the entire period of the trip, and six months beyond

U.S. immigration laws require that the passport should be valid for at least that long. Any less, and you're likely to have the immigration officer tell you that you won't be allowed to stay as long as you've planned or worse yet, that you can't enter at all even though your passport has not expired. (The U.S. will accommodate citizens of some countries by considering their passports to be valid for six months beyond expiration.) (See (A) below).

Make sure your intended activities comply with the standards for business visits

Business trips are classified as "B-1" entries and pleasure trips are given the "B-2" classification. You might think that you'll work hard on your trip, but your activities must be considered "doing business," not "working," to fit within the acceptable standards for a B-1 admission. "Doing business" may include attending conferences, trade shows, negotiating contracts, etc. "Work," which is not allowed under the B-1 standard, includes compensation for services in the U.S. with the benefit of those services accruing in the U.S.

Do you need a visa or are you eligible for the Visa Waiver Program?

Almost everyone who enters the U.S. for business visits must have a B-1 visa (which may include a B-1/B-2 visa) or be eligible to enter without a visa under the Visa Waiver Program. Canadians do not need either visa and are not part of the Visa Waiver Program.

Getting a visa has become complicated and time-consuming. Make sure to allow for enough time to complete the form or forms required, have an interview and get the visa. Interviews are required in many cases and can take up to several weeks to be scheduled. A visa can be issued as quickly as on the day the application is considered, but may take as many as ten days or more.

If you're from one of the 27 countries in the Visa Waiver Program (see (B) below), you may be able to enter without a B-1/B-2 visa, but you still have responsibilities and risks. Don't get on the plane before (1) you know that your trip fits the B-1/B-2 standards, (2) you have a round-trip ticket, and (3) you know that you can accomplish your tasks within 90 days. Any violation of the Visa Waiver rules, including overstaying by just one day, terminates your ability to use the Visa Waiver Program ever again, although Port Officers have the discretionary authority to grant a one-time admission in certain cases. Because there is no official notice of a violation given to you, it means you have to know the rules or face the risk of being turned away at the U.S. airport upon arrival.

Be ready to provide even more information to the government when you arrive

Entry and exit procedures will be changing over the coming years. The US-VISIT program already requires fingerprinting and photographs for almost all people who enter the U.S. using visas or by Visa Waiver. Exit registration is currently required, but only if departure is from one of the specifically designated air or sea ports.

A separate program called NSEERS gathers much more detailed information, but only from people of specific citizenship or national origins. Anyone who is subjected to NSEERS registration at the time of entry must exit the U.S. from specifically designated ports and must register the exit.

Tell the government if you change locations

That card that you complete on the plane, either white or green, is called an I-94 Departure Record (see (C) below). It includes a line for your address while in the U.S. - but it allows for only one address. You must notify the government of any change of address within 10 days of that change by filing a Form AR-11. That document can be found on the "Immigration Forms" tab on USCIS web site at www.uscis.gov/portal/site/uscis. People subject to NSEERS "special registration" must file the AR-11SR. Failure to comply with this requirement may result in denied entry in the future.

What you do when you leave may affect whether you can go back and what happens if you do get back

Exit register if you were required to complete NSEERS registration when you entered. This may be done at only specific ports of departure and may take 1/2 hour or more. A list of the limited number of "ports-of-departure" for NSEERS exit registration can be found by visiting www.ice.gov/doclib/pi/specialregistration/WalkawayMaterial.pdf.

Exit register if you registered under US-VISIT and your departure is from one of the air or sea ports with US-VISIT exit registration. Exit ports are being added all the time, so, at the time you leave, you should inquire as to whether your departure port requires exit registration. This is a quick procedure, taking only a few moments. A list of ports at which US-VISIT technology has been implemented can be found at www.dhs.gov/xtrvlsec/programs/editorial_0685.shtm.

Surrender your I-94 Departure Record when you leave, or face serious consequences

U.S. law requires you to surrender your I-94 Departure Record when you leave. It's that white or green card that you were given when you arrived. The government uses that as evidence of your departure. If you arrive at home and realize that you still have the card, you should return it, along with original documentary evidence that you left the U.S. by the expiration date of that card (such as boarding pass, credit card purchases signed outside the U.S., etc.) to prove that you were outside the U.S. before or shortly after the expiration date of that card. Failure to do so will likely result in at least (1) the government assuming that you have stayed beyond the time allowed and violated the terms of your admission, (2) you being sent to "secondary inspection" for closer questioning upon your next arrival, and (3) prohibition of use of the Visa Waiver program if the I-94 card was green. Any of these could result in a refused admission and immediate return to the country of origin for that trip.

If all of this sounds complicated, it is. Business travel to the U.S. is not as easy as it used to be, and the penalties for violation of the standards are more severe. Don't let your next trip end before the meetings start - plan your immigration as well as you plan your business, and you'll have less to worry about.

U.S. Immigration laws change quickly. You may want to check with U.S. immigration counsel before you start packing.

This article is current and up-to-date as of April 3, 2006.

(A) Algeria, Antigua & Barbuda, Argentina, Australia, Austria, the Bahamas, Bangladesh, Barbados, Belgium, Bolivia, Bosnia-Herzegovina, Brazil, Canada, Chile, Colombia, Costa Rica, Cote D'ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Germany, Greece, Grenada, Guatemala, Guinea, Guyana, Hong Kong (Certificates of identity & passports), Hungary,

Iceland, India, Ireland, Israel, Italy, Jamaica, Sweden, Switzerland, Syria, Taiwan, Thailand, Togo, Trinidad & Tobago, Japan, Jordan, Korea, Kuwait, Laos, Latvia, Lebanon, Liechtenstein, Luxembourg, Macau, Madagascar, Malaysia, Malta, Mauritius, Mexico, Monaco, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russia, Senegal, Singapore, Slovak Republic, Slovenia, South Africa, Spain, Sri Lanka, St. Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, Sudan, Suriname, Tunisia, Turkey, United Arab Emirates, United Kingdom, Uruguay, Venezuela, Zimbabwe.

(B) Citizens of Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, New Zealand, the Netherlands, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom are eligible to be considered for Visa Waiver admission. Passports must be machine-readable for Visa Waiver admission.

A citizen of a country participating in the Visa Waiver Program must present a machine-readable passport or nonimmigrant visa for admission.

Each Visa Waiver Program applicant must present an individual machine-readable passport. This is a change for family members who have applied for admission under one passport in the past. Families must have individual machine-readable passports for everyone, including children.

Passports used for Visa Waiver admission that are issued on or after October 26, 2005 must contain "biometric identifiers" such as a digital photograph. Additional requirement for Visa Waiver admission will be imposed on October 26, 2006 for Visa Waiver admission.

(C) Most Canadians admitted in B-1 or B-2 status are not given an I-94.