

**SECURE BORDERS,
OPEN DOORS:
Visa Procedures in the
Post-September 11 Era**

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EXECUTIVE SUMMARY

The terrorist attacks of September 11, 2001 have challenged both the US government and US society in many and novel ways. Among the responses that the US government has adopted since that date, the lion's share have focused on protecting our homeland from the entry of foreigners who may wish us ill. The adjudication of visas has been front and center among those responses. And as visas have come to be understood as the first line of defense in a "layered approach" to homeland security, the systems that support them, in addition to the processes themselves, have become subject to the heaviest scrutiny in the post-September 11 era—and are among the mechanisms that have changed the most.

This report discusses reforms to the entire system through which foreigners travel to and seek entry into the United States. It investigates changes to the visa issuance process and to the infrastructure that supports that function at the Departments of State and Homeland Security. It then discusses how well the new post-September 11 policies, mechanisms, and procedures advance the stated goals of the visa program: Secure Borders, Open Doors.

The report finds that the basic legislative framework that determines who is admissible to the United States, and, by extension, the legal structure of the visa process itself, has not changed in significant ways. In fact, the visa classes themselves remain intact, applicants still must have a US petitioner for certain classes of visas and make an application at a consular office, and a successful visa applicant gets to travel to a US border where the decision to admit (or not) is made by an inspector. However, the administrative elements of the process have changed substantially. These include the expansion of interview requirements, the creation of additional security checks, the development of special registration programs, and the use of biometric identifiers.

This report finds that the issuance of US visas has become a much more security conscious process since September 11 and notes the gradual reintroduction of a sense of balance, proportion and flexibility to the visa program. Nonetheless, a number of problems remain:

Agency Cooperation and Coordination: The agencies involved in visa policy must learn to coordinate their decisions better and communicate them to the field more efficiently. Specifically, timeliness, completeness and accuracy of information, and a secure way for storing such information and making it available in real time to anyone who should have access to it are essential to a secure travel and border inspection system. The US government has much ground to cover in meeting these higher standards of procedural robustness and security.

Facilitation and Efficiency: The visa, travel, and border inspection processes should be facilitated for travelers with a vetted identity, adequate and current background information, and a legitimate purpose for travel. Travelers who have already been approved for visas and have up-to-date security checks in the recent past should be fast tracked through the travel continuum.

Administrative Reform—Transparency, Evaluation, and Data: The administrative components of issuing visas, while seemingly mundane, are key to a stronger and more coherent process. Improved transparency, better and continuous program evaluation, and publicly available information that does not compromise security will contribute to a more reliable and effective visa system.

Training and Investment in Personnel: Many consular and DHS officers may not be fully prepared to apply immigration law in ways that guarantee that US security interests are met. Among the unresolved issues in this regard are the continued uncertainty between DHS and the State Department over which agency has responsibility for training personnel, and the lack of capacity within the State Department to provide updated security training for seasoned officers at their posts.

The report makes four broad recommendations for the visa adjudication process:

- **Articulate a Vision for US Visa Policy:** The State Department and DHS should clearly define the purposes of US visa policy and jointly develop a strategic plan to operationalize it.

- **Develop Interagency Evaluation Mechanisms:** The State Department and DHS should create an interagency board to review incidents that have resulted in the admission of persons who commit or attempt to commit terrorist attacks. The departments should also create a federal advisory committee on immigration with a working group focusing on the visa system.
- **Simplify the Visa Classification System and Application Process:** The visa system should be simplified, and the tools to help officers classify visa applicants should be improved.
- **Back to Basics—Improve Intelligence:** National terrorist watch lists and the information that finds its way onto them must have more and better field intelligence as well as access to technologies that are truly compatible. Relevant information must be made available in real time to all those who must make decisions about travel to and entry into the US.

Other key recommendations for specific components of the visa issuance process include:

For the State Department:

- Offering waivers of personal appearance for low risk applicants who have recently applied for visas and have adequate biometric identifiers on record.
- Developing the capacity for and creating a system of more thorough reviews of applications of interest (similar to the border’s secondary inspection system) at all consular offices.
- Reconsidering whether all visa applicants who are now required to demonstrate that they have no intent to immigrate permanently to the United States should continue to have to do so.
- Investing in and relying more on algorithm-based risk management techniques to select high-risk individuals for interview selection *and* on probabilistic sampling strategies to increase or decrease the frequency of screening for low-risk applicants.

For the Department of Homeland Security:

- Continuing to invest the necessary diplomatic and physical capital to expand the airport locations in which the entire inspection function can be completed before a traveler gets on a plane to fly to the US.
- Enhancing the criteria for admission into the visa waiver program, including requiring all participating countries to fully cooperate with the sharing of terrorism-related intelligence.
- Creating an office of assistant secretary for immigration policy reporting to the new undersecretary for policy in DHS.

For the State Department and the Department of Homeland Security:

- Eliminating the new DHS Visa Security Officer program and merging its functions with similar programs in the State Department.
- Returning the oversight of consular performance evaluations from DHS to the State Department.
- Encouraging the State Department and the DHS to share best practices in training.
- Making security check results available to all relevant agencies by using secure, reliable, fully integrated, and technologically interoperable systems.

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