

REVISED TRUMP EXECUTIVE ORDER AND GUIDANCE ON REFUGEE RESETTLEMENT AND TRAVEL BAN

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Issue	Executive Order 13780: Protecting the Nation From Foreign Terrorist Entry into the United States (Signed March 6, 2017)	Earlier and Current Policy/Practice and Context
SECTION 1: POLICY AND PURPOSE OF THE EXECUTIVE ORDER		
Description of original Executive Order 13769	<p>1(a-c) As a preface, the revised executive order¹ signed March 6, 2017 lays out the history of its predecessor: Executive Order 13769, signed January 27, 2017.² The earlier executive order, revoked with the signing of the revised one, banned all entries, including those of individuals with valid visas, if they were nationals of one of seven countries: Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen. The ban was an exercise of presidential authority under Article II of the Constitution and section 212(f) of the <i>Immigration and Nationality Act</i> (INA).</p> <p>Executive Order 13769 suspended the U.S. refugee program for 120 days.</p> <p>The administration defended the intent of the original order, stating it “did not provide a basis for discriminating for or against members of any particular religion” and was “not motivated by animus toward any religion.”</p>	<p>The January 27 executive order almost immediately faced legal challenges and resulted in widespread confusion at U.S. airports. In several cases, federal judges issued court orders that temporarily restrained or enjoined parts of the executive order. In <i>State of Washington v. Donald J. Trump et al</i>, a district court placed a temporary nationwide restraining order on the enforcement of certain portions of the executive order, including the ban on entries from Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen, as well as the temporary suspension of the U.S. refugee resettlement program.³</p> <p>On February 9, 2017, a three-judge panel of the 9th U.S. Circuit Court of Appeals unanimously affirmed the Washington State district court’s temporary restraining order. The panel held that when deciding whether the executive order was intended to discriminate against Muslims, it is permissible to look to evidence beyond the text of the order to discern its intention, such as many statements made by Donald Trump on the campaign trail about his plan to implement a “Muslim ban.”</p>

1 On March 6, 2017, President Trump signed an executive order that rescinded and replaced an earlier executive order he had signed on January 27, 2017 that received widespread international and domestic criticism and was the subject of dozens of legal challenges that resulted in limited and national injunctions restricting its implementation. This brief examines the revised executive order, comparing it to provisions of the original executive order as well as prior policy and practice. For the revised executive order, see White House, “Executive Order 13780 of March 6, 2017, Protecting the Nation from Foreign Terrorist Entry into the United States,” *Code of Federal Regulations*, Title 3 (2017): 13209-19, www.gpo.gov/fdsys/pkg/FR-2017-03-09/pdf/2017-04837.pdf. The revised executive order was accompanied by a presidential memorandum further describing the implementation of the order. See Donald J. Trump, President of the United States, “Memorandum: Implementing Immediate Heightened Screening and Vetting of Applications for Visas and Other Immigration Benefits, Ensuring Enforcement of All Laws for Entry into the United States, and Increasing Transparency among Departments and Agencies of the Federal Government and for the American People” (White House memorandum, March 6, 2017), www.whitehouse.gov/the-press-office/2017/03/06/memorandum-secretary-state-attorney-general-secretary-homeland-security. On March 15, the day before the revised executive order was set to take effect, it was subject to a nationwide temporary restraining order preventing implementation of some parts. In *State of Hawai’i and Ismail Elshikh vs. Donald J. Trump et al*, a U.S. district court in Hawaii placed a temporary restraining order on the enforcement of Section 2, which includes the temporary suspension of entries of nationals from Iran, Libya, Somalia, Sudan, Syria, and Yemen who do not already have a visa; and Section 6, which includes the temporary suspension of the U.S. refugee resettlement program. This fact sheet is reflective of the text of the executive order as signed and does not include ways in which this or other legal cases have altered the enforcement of the order.

2 White House, “Executive Order 13769 of January 27, 2017, Protecting the Nation from Foreign Terrorist Entry into the United States,” *Code of Federal Regulations*, Title 3 (2017): 8977-82, www.gpo.gov/fdsys/pkg/FR-2017-02-01/pdf/2017-02281.pdf.

3 *State of Washington and State of Minnesota v. Trump*, No. 2:17-cv-00141 (W.D. Wash. 2017).

<p>Security justification for the travel and refugee ban</p>	<p>1(d-i) The original executive order asserted that nationals of the seven designated countries warrant additional scrutiny because “the conditions in these countries present heightened threats.” Each of these countries “is a state sponsor of terrorism, has been significantly compromised by terrorist organizations, or contains active conflict zones.”</p> <p>The revised executive order removes Iraq from the list of designated countries, referring to it as a “special case.” While recognizing that portions of Iraq are active combat zones and ISIS has influence over significant territory, the revised order cites the close cooperative relationship between the United States and Iraq and the strong U.S. presence within Iraq to justify removal of the country. In addition, since the original executive order was signed, the Iraqi government has “expressly undertaken steps to enhance travel documentation, information sharing, and the return of Iraqi nationals subject to final orders of removal.”</p> <p>The revised executive order asserts that numerous foreign-born individuals have been convicted or implicated in terrorism-related crimes since 2001, including 300 people who entered the United States as refugees and are currently the subject of counterterrorism investigations by the FBI.</p>	<p>The prior executive order temporarily banned nationals of Iran, Iraq, Libya, Somalia, Sudan, Syria, and Yemen. This section of the revised executive order explains why Iraq was excluded, and includes information advanced by the administration why nationals of the six designated countries present a heightened security risk. The failure of the administration to justify its selection of the designated countries was a frequent issue in legal challenges to the prior executive order.</p> <p>Precise numbers of acts of terrorism committed by the foreign born are difficult to determine because there is no universal definition of terrorism. One review of jihadist-related terrorism cases, by the New America Foundation, found that U.S.-born citizens accounted for nearly half of those implicated.⁴ The report also found that every individual who conducted a lethal attack was either a citizen or legal resident. None emigrated or came from a family that emigrated from one of the seven countries designated in the original executive order.</p> <p>A 2016 Cato Institute report analyzed instances of terrorism committed by refugees and found that the chance of being murdered in a terrorist attack committed by a refugee is one in 3.64 billion a year, based on records from 1975 through 2015.⁵</p> <p>Further detail on the 300 refugees referenced in the revised order as subjects of FBI counterterrorism investigations had not been released as of this writing.</p>
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SECTION 2. TEMPORARY SUSPENSION OF ENTRY FOR NATIONALS OF COUNTRIES OF PARTICULAR CONCERN DURING REVIEW PERIOD

<p>Review of information needed from foreign governments</p>	<p>2(a-b)(d) The Department of Homeland Security (DHS) is ordered to submit a report on the information needed from each country in order to determine that applicants for admission are not security or public-safety threats. In the report, DHS must also list the countries that do not provide adequate information on their nationals. The report must be submitted to the President within 20 days of the effective date of the executive order (by April 5, 2017). On that date, the listed countries have 50 days to start providing the requested information.</p>	<p>Foreign nationals currently submit their own documentation and information to apply for a visa and/or admission. While information provided by foreign governments is included in immigration, criminal, and terrorist databases through which every application is run, these governments do not for the most part submit or confirm information on specific applicants.</p> <p>However, the United States does have information-sharing agreements with select governments that assist in decision-making for visa applications. All countries that participate in the Visa Waiver Program must agree to share information regarding whether their citizens represent a threat to the security or welfare of the United States, as well as to report lost and stolen passports to INTERPOL.⁶ In addition, the United States has more detailed information-sharing agreements with certain countries, including Australia, Canada, New Zealand, and the United Kingdom, including providing case-by-case biographic and biometric information.⁷</p>
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4 Peter Bergen, Albert Ford, Alyssa Sims, and David Sterman, “In Depth: Terrorism in America After 9/11,” New America Foundation, accessed January 30, 2017, www.newamerica.org/in-depth/terrorism-in-america/part-i-overview-terrorism-cases-2001-today/.

5 Alex Nowrasteh, *Terrorism and Immigration: A Risk Analysis* (Washington, DC: Cato Institute, 2016), https://object.cato.org/sites/cato.org/files/pubs/pdf/pa798_1_1.pdf.

6 INTERPOL is the world’s largest international police organization, with 190 member countries. INTERPOL’s mandate and primary task is to support police and law enforcement agencies in its member countries, including facilitating crossborder police cooperation.

7 Biometric information consists of physical characteristics of individuals that can be used for the purposes of identification, such as fingerprints, iris scans, or facial recognition. Biographic information consists of facts or events related to an individual’s life, such as name, date of birth, etc.

<p>Suspension of the entry of individuals detrimental to U.S. interests</p>	<p>2(c) The President invokes his power pursuant to the INA, sections 212(f) and 215(a) to declare that the entry of certain individuals would be detrimental to the interests of the United States and should be suspended.</p>	<p>This is the broadest use to date of INA section 212(f), which gives the President authority to suspend the entry of noncitizens deemed to be “detrimental to the interests of the United States.” It is also the only order or proclamation invoking section 212(f) that was not inspired by specific events. As a result, admissions of refugees worldwide and noncitizens from the countries designated would be suspended on March 16, 2017.</p> <p>Prior use of this section, which became part of the INA in 1952, was limited to considerably smaller groups, such as unauthorized immigrants arriving by sea or members of specific foreign governments who had committed human-rights abuses. The most recent prior use was in 2011 when the Obama administration suspended the entry of foreign nationals who participate in serious human-rights and humanitarian law violations (Proclamation 8697).</p> <p>This is also the broadest use to date of INA section 215(a), which also gives the President authority to restrict the entrance of foreign nationals. Previous presidents have used this section to exclude certain groups of foreign nationals. For example, during the Iran hostage crisis, President Carter cited section 215(a) when authorizing the revocation of visas issued to Iranian citizens.⁸</p> <p>(The original Trump administration executive order, No. 13769, invoked the President’s power only under section 212(f), not 215(a).)</p>
<p>Suspension of entries from Iran, Libya, Somalia, Sudan, Syria, Yemen, and possibly other countries</p>	<p>2(c)(e-g) Specifically, entries of immigrants and nonimmigrants from Iran, Libya, Somalia, Sudan, Syria, and Yemen are suspended for 90 days, until June 14, 2017 (under INA sections 212(f) and 215(a)), except for those encompassed within the limitations, exceptions, and waivers set out in sections 3 and 12 below. After 70 days (May 25, 2017), DHS, in consultation with the State Department, shall submit a list of countries recommended for inclusion in this suspension. At any point afterwards, DHS may submit other countries to add to the suspension.</p>	<p>The six countries, along with Iraq, were designated for changes to the Visa Waiver Program (VWP) under the <i>Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015</i>. The law restricts nationals of Iran, Iraq, Sudan, and Syria, who are also nationals of one of the 38 VWP countries, from visa-free entry to the United States, as well as anyone who traveled to one of the countries on or after March 1, 2011. After the law’s implementation, DHS added Libya, Somalia, and Yemen to the designated “countries of concern” list, and restricted the visa-free entry of individuals who had traveled to one of these countries on or after March 1, 2011. Prior to both the original and revised executive orders, those restricted under the law had been permitted to apply for nonimmigrant or immigrant visas to enter the United States.</p> <p>Despite Iraq’s inclusion in the group of countries designated for VWP changes under the <i>Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015</i> and inclusion in the January 2017 executive order, the administration removed Iraq from the travel ban countries for the reasons listed in Section 1(g).</p>

⁸ White House, “Executive Order 12172, Delegation of Authority with Respect to Entry of Certain Aliens Into the United States,” 44 *Federal Register* 67947, 67947 (November 28, 1979); White House, “Executive Order 12206, Amendment of Delegation of Authority with Respect to Entry of Certain Aliens Into the United States,” 45 *Federal Register*, 24101, 24201 (April 7, 1980).

SECTION 3. SCOPE AND IMPLEMENTATION OF SUSPENSION

Limitations to the travel ban	<p>3(a) The suspension of entry of nationals from Iran, Libya, Somalia, Sudan, Syria, and Yemen applies only to individuals who:</p> <ul style="list-style-type: none"> ▪ were outside of the United States on March 16, 2017; ▪ did not have a valid visa on January 27, 2017; and ▪ did not have a valid visa on March 16, 2017. 	<p>Under the ban, nationals of the six countries who have a preapproved, lawful means of entering the United States, such as a nonimmigrant visa or legal permanent residence (also known as having a green card), may continue to travel to the United States.</p> <p>(Under the original executive order, nationals of the barred countries who held valid visas—including green-card holders—were banned from entering the United States.)</p>
Exceptions to the travel ban	<p>3(b) The suspension of entry of nationals from Iran, Libya, Somalia, Sudan, Syria, and Yemen does not apply to:</p> <ul style="list-style-type: none"> ▪ lawful permanent residents; ▪ any foreign national who is admitted or paroled into the United States on or after March 16; ▪ any foreign national who has a valid document other than a visa, such as an advance parole document, that permits him or her to seek admission into the United States; ▪ dual nationals who travel on a passport issued by a country that is not one of the designated six countries; ▪ any foreign national traveling on a diplomatic or similar specified visa; or ▪ any foreign national who has been granted humanitarian protection including asylum, admission as a refugee, withholding of removal, advance parole, or protection under the Convention Against Torture. 	<p>The executive order details a number of explicit exceptions to the ban on entry from the designated countries.</p> <p>The original executive order only explicitly exempted foreign nationals traveling on diplomatic or similar specified visas. After the original order’s implementation, the administration clarified that lawful permanent residents and dual nationals traveling on a passport issued by a country that is not designated were also not subject to the entry ban.</p> <p>The revised order makes these exemptions explicit in the text and adds foreign nationals admitted or paroled after the effective date of the ban, foreign nationals with valid advance parole or similar documents permitting entry, and foreign nationals granted certain types of humanitarian protection.</p>
Case-by-case waivers	<p>3(c) U.S. Customs and Border Patrol (CBP) may decide on a case-by-case basis to authorize the issuance of a visa to or permit the entry of a foreign national whose travel is otherwise restricted under this ban if denying entry would cause undue hardship and it is determined that his or her entry does not pose a threat to national security and would be in the national interest.</p> <p>The executive order describes nine specific scenarios in which such a case-by-case waiver could be appropriate, including for foreign nationals who were previously admitted for work or study, or for foreign nationals seeking to visit an immediate family member who is lawfully resident in the United States.</p>	<p>Executive Order 13769 gave DHS and the State Department similar case-by-case authority to issue visas or other immigration benefits to individuals from the banned countries when in the national interest. The revised executive order limits this power to CBP and gives specific scenarios when such a case-by-case waiver could be appropriate. If applied to its fullest extent, many individuals who would have otherwise been excluded may be admitted, including students, individuals seeking to do business in the United States, family members of individuals resident in the United States, or individuals working with the U.S. government.</p> <p>CBP historically has had the authority only to make decisions about admissions, not visas. Why the executive order would give CBP authority to make decisions on visas is not clear.</p>

SECTION 4. ADDITIONAL INQUIRIES RELATED TO NATIONALS OF IRAQ

Extra vetting for nationals of Iraq	Applications for visas, admission, or other immigration benefits by Iraqi nationals should receive thorough review, including, if appropriate, consultation with the Department of Defense and “use of the additional information that has been obtained in the context of the close U.S.-Iraqi security partnership.” Such review will include consideration of potential connections to ISIS or other terrorist organizations, as well as other information relevant to the national security or public safety of the United States.	Rather than include Iraq on the list of designated countries for the travel ban, the revised executive order mandates additional review of Iraqi applications for entry. As detailed below, each visitor to the United States, including each Iraqi national, undergoes detailed biometric and biographic checks.
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SECTION 5. IMPLEMENTING UNIFORM SCREENING STANDARDS FOR ALL IMMIGRATION PROGRAMS

Extreme vetting	<p>5(a) The State Department, the Department of Justice, DHS, and the Director of National Intelligence will implement an enhanced adjudication process to identify individuals seeking to do harm, including:</p> <ul style="list-style-type: none"> ▪ a uniform screening standard and procedure; ▪ a database of identity documents to ensure that multiple applicants do not use the same documents; ▪ application forms with questions to identify fraudulent answers and malicious intent; ▪ a mechanism to ensure that the applicant is who he or she claims to be; ▪ a mechanism to assess whether the applicant will commit or support “any kind of violent, criminal, or terrorist acts after entering the United States;” ▪ a mechanism to assess whether the applicant intends to commit criminal or terrorist acts; and ▪ any other appropriate means to ensure a rigorous evaluation of each application against all grounds of inadmissibility and other grounds for denial. <p>The President’s memorandum, which was released concurrently with the revised executive order, also instructs the heads of relevant agencies and departments to “rigorously enforce all existing grounds of inadmissibility and to ensure subsequent compliance with related laws after admission” and to issue new regulations and guidance to enforce such laws.⁹</p>	<p>Each visitor to the United States must submit biographic data; present secure travel documents; be fingerprinted and photographed; and have their identities checked against immigration, criminal, and terrorist databases. These databases include the Consular Consolidated Database, which is a biometric and biographic database that includes all records, photographs, and fingerprint scans of all U.S. visa applicants worldwide.¹⁰</p> <p>Most applicants are subject to an in-person interview to verify their information and intent to travel. Interviews are required for all applicants for legal permanent residence. These green-card applicants and some nonimmigrant visa applicants must also have physical and mental examinations.</p> <p>Anyone flagged for suspicious behavior or information at any point during the application and admissions process is referred for more in-depth review by intelligence and law enforcement agencies.</p> <p>While every applicant for admission to the United States is evaluated against the grounds of inadmissibility included in the INA, the reference in the revised executive order and subsequent memorandum to “<i>rigorous</i> evaluation of <i>all</i> grounds of inadmissibility” (emphasis added), may be an indication of stricter enforcement. Under INA section 212, foreign nationals may be deemed inadmissible to the United States under a number of grounds, including health, crime, likelihood of becoming a public charge, prior immigration violations, or unlawful voting.</p> <p>(Executive Order 13769 also requested a process to evaluate the applicant’s likelihood of becoming a “positively contributing member of society” and ability to “make contributions to the national interest.” This provision was removed from the revised executive order.)</p>
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⁹ President Trump, “Memorandum: Implementing Immediate Heightened Screening and Vetting of Applications for Visas and Other Immigration Benefits, Ensuring Enforcement of All Laws for Entry into the United States, and Increasing Transparency among Departments and Agencies of the Federal Government and for the American People.”

¹⁰ Other databases and system checks include the Consular Lookout and Support System (CLASS), the Security Advisory Opinion (SAO) system, and the Kingfisher Expansion (KFE). In addition, the Consular Consolidated Database links with other databases to flag potential problems, including the Automated Biometric Identification System (IDENT), the Integrated Automated Fingerprint Identification System (IAFIS), facial-recognition technology from the Terrorist Screening Center, and the Traveler Enforcement Compliance System (TECS).

SECTION 6. REALIGNMENT OF THE U.S. REFUGEE ADMISSIONS PROGRAM FOR FISCAL YEAR 2017

Suspension of the refugee resettlement program	6(a)(c) Travel to the United States under the U.S. Refugee Admissions Program (USRAP) and all decisions on applications for refugee status are suspended for 120 days after the effective date of this order (from March 16 – July 14, 2017). During the suspension, the State Department, DHS, and Director of National Intelligence will review the adjudications process to determine what changes should be made to ensure that those seeking admission as refugees do not pose a threat to U.S. security and welfare. After 120 days the State Department and DHS will resume the travel of refugees into the United States and decisions on refugee applications only for stateless persons and nationals of countries for which such additional procedures are adequate. The State Department and DHS may make case-by-case exceptions to the suspension when in the national interest and when it does not pose a threat to the security and welfare of the United States.	<p>Even prior to the signing of the executive orders, would-be refugees were undergoing a screening process that lasts from nine to 24 months. The process begins with the UN refugee agency performing an initial assessment based on identity documents, biographic information, and interviews. Fewer than 1 percent of applicants move on to the next step.</p> <p>Those considered for admission to the United States are generally victims of torture, those with medical conditions that cannot be addressed in place, or female-headed households. U.S. agencies collect identity documents and conduct biographic security checks, including name checks against CLASS, Security Advisory Opinions, and the interagency check. The National Counterterrorism Center, the FBI, DHS, and the State Department all screen the candidates. Specially trained refugee officers from U.S. Citizenship and Immigration Services (USCIS) interview the candidates to determine their eligibility under the refugee definition (see below) and whether they are admissible under the terms of U.S. immigration law, and conduct a further biometric check, in which the applicant’s fingerprints are again screened against FBI, DHS, and Defense Department databases. Finally, applicants who have cleared all other checks must undergo medical screening and participate in cultural orientation programs before traveling to the United States.</p> <p>(Executive Order 13769 mandated that upon resumption of the refugee program, the government prioritize refugee claims by individuals on the basis of religious-based persecution, if the individual is a member of a minority religion in his or her country of nationality. It also indefinitely suspended entries of Syrian refugees. The revised order has explicitly deleted these two provisions.)</p>
Limiting refugee admissions	6(b) The original and revised executive orders, citing INA section 212(f), reduce the refugee admission ceiling for fiscal year 2017 to 50,000 from the 110,000 designation earlier set by President Obama.	As of March 8, 2017, 37,511 refugees had already entered the United States during the fiscal year, which ends on September 30. ¹¹
State and local input into refugee resettlement	6(d) Under the original and revised executive orders, state and local jurisdictions will be granted a role in the process of determining the placement of refugees in their jurisdictions. The State Department will develop a proposal to this end.	Under the <i>Refugee Act of 1980</i> , the federal government is required to “consult regularly” with state and local jurisdictions concerning the distribution of refugees (8 U.S.C. 1525(c)(1)). In practice, refugee resettlement has occurred with limited input by states, and sizeable numbers of governors have indicated their opposition to resettlement of some or all refugees in their state since terrorist attacks in Paris in December 2015.

¹¹ Department of State, “Worldwide Refugee Admissions Processing System (WRAPS),” accessed March 8, 2017, <http://ireports.wrapsnet.org/>.

SECTION 7. RESCISSION OF EXERCISE OF AUTHORITY RELATING TO THE TERRORISM GROUNDS OF INADMISSIBILITY		
Terrorism-related inadmissibility grounds	Under the original and revised executive orders, DHS and the State Department, in consultation with the Attorney General, will consider rescinding exercises of authority (under INA section 212(d)(3)(B)) that allow individuals to enter the United States despite being inadmissible due to grounds related to terrorism.	<p>The INA restricts admission of individuals who have engaged in certain activities related to terrorism, such as having been a member of a political, social, or other group that endorses terrorist activity or provided material support for a terrorist activity. These bars were greatly expanded under the <i>USA PATRIOT Act</i> and the <i>REAL ID Act</i>.</p> <p>The expanded bars resulted in delay or denial of the applications of thousands of bona fide refugees and asylum seekers, even if their barred action was acquiescing to a terrorist group’s demands while under duress, for example. In response, Congress in 2007 expanded DHS authority to issue exemptions. Since then, DHS issued exemptions with designations in the <i>Federal Register</i> or with policy guidance pertaining to specific situations or groups that would otherwise fall under the grounds. Currently, DHS has authorized eight situation-based exemptions and 13 group-based exemptions.¹²</p>
SECTION 8. EXPEDITED COMPLETION OF THE BIOMETRIC ENTRY-EXIT TRACKING SYSTEM		
Biometric entry-exit tracking system	8(a) Both the original and revised executive orders order DHS to “expedite” the completion and implementation of a biometric entry-exit tracking system.	<p>As detailed above, the State Department and DHS collect biometric and biographic information at the time applicants file a visa application, as well as biographic and (at times) biometric information when the individual arrives at a U.S. port of entry. DHS receives passenger manifests to establish exit data for individuals leaving by air and sea.</p> <p>Since 1996, Congress has enacted several laws requiring the creation of a biometric entry/exit tracking system to identify visa overstays. A biometric entry system, known as US-VISIT, was established after 9/11, and is operational at U.S. ports of entry and consular offices, now under the name of the Office of Biometric Identity Management. A counterpart exit system has not been built for a combination of reasons, primarily airport space constraints.</p>
SECTION 9. VISA INTERVIEW SECURITY		
Visa Interview Waiver Program	<p>9(a-b) The executive order, both in its original and revised forms, suspends the State Department’s Visa Interview Waiver Program and expands the Consular Fellows Program in order to accommodate increased consular interviews for visas.</p> <p>The suspension will not apply to foreign nationals traveling to the United States on diplomatic visas, visas for travel to the United Nations or related to the North Atlantic Treaty Organization, or travel for purposes related to an international organization or to conduct business with the U.S. government.</p>	<p>The Visa Interview Waiver Program (IWP) was implemented as a two-year pilot program in January 2012 and made permanent in January 2014. It waives interviews for low-risk travelers who have already been vetted by the U.S. government, and in many cases are prior recipients of a U.S. visa. In September 2012, the State Department reported waiving interviews for 120,000 applicants over a ten-month period, and that the IWP was operational in 52 processing posts in 28 countries (including India, China, Russia, and Mexico).¹³</p> <p>(Executive Order 13769 had no exceptions to the suspension of the IWP.)</p>

12 Situational exemptions include providing material support under duress, receiving military-type training under duress, and providing voluntary medical care. Group-based exemptions include the All Burma Students Democratic Front (ABSDF), the Nationalist Republican Alliance (ARENA), and the Ethiopia People’s Revolutionary Party (EPRP). See U.S. Citizenship and Immigration Services (USCIS), “Terrorism-Related Inadmissibility Grounds Exemptions,” accessed February 6, 2017, www.uscis.gov/laws/terrorism-related-inadmissibility-grounds/terrorism-related-inadmissibility-grounds-exemptions.

13 U.S. Department of State, “Progress Report on Improvements to Visa and Foreign Visitor Processing” (news release, September 12, 2012), <https://web.archive.org/web/20170113063438/https://www.state.gov/r/pa/prs/ps/2012/09/197951.htm>.

SECTION 10. VISA VALIDITY RECIPROCITY

Ensuring visa reciprocity by other countries	Both the original and revised executive orders mandate that the State Department ensure that all nonimmigrant visa reciprocity agreements are truly reciprocal, with respect to validity periods (INA 221(c)), fees (INA 281), and other treatment.	The State Department regularly adjusts visa validity periods and visa issuance fees, based on the principle of reciprocity.
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SECTION 11. TRANSPARENCY AND DATA COLLECTION

Data reporting	<p>11(a-b) Every six months, DHS is required to publicly report on:</p> <ul style="list-style-type: none"> ▪ The number of foreign nationals in the United States who have been charged or convicted of terrorism-related offenses ▪ The number of foreign nationals removed from the United States based on terrorism-related activity or any other national security reason ▪ The number of foreign nationals who have been radicalized after U.S. entry and have engaged in terrorism-related acts, or who have provided material support to terrorism-related organizations ▪ The number and types of acts of gender-based violence against women committed by foreign nationals in the United States. <p>The first report published under this section shall include information for the period from September 11, 2001 until the date of the initial report. Subsequent reports will reflect the period since the prior report.</p>	<p>Regularly reporting charges, convictions, and similar information on foreign-born individuals would require a new reporting system, with involvement required from state and local governments. The only current similar practice is the FBI's Uniform Crime Reporting (UCR) program, which has been in place since 1929. UCR requires thousands of state, local, territorial, and tribal agencies to report annually on violent and property crime offenses. It does not include information on criminal charges.</p> <p>This mandate requires establishing a parallel system within DHS that reports on terrorism charges, convictions, and acts.</p> <p>(Executive Order 13769 did not require DHS to report on any period prior to the order's effective date.)</p>
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Data reporting in memorandum	<p>The implementation memorandum issued by the President concurrently with the revised executive order also mandates that DHS and the State Department issue:</p> <ul style="list-style-type: none"> ▪ A monthly report by the State Department on the number of visas issued in each country during the prior month ▪ A quarterly report by DHS on the number of adjustments of immigration status made during the prior month ▪ A report by the State Department detailing the estimated long-term costs of the U.S. Refugee Admissions Program ▪ A report by the State Department estimating how many refugees are being supported in countries of first asylum for the same long-term cost as supporting refugees in the United States. 	<p>Currently, both the State Department and DHS release annual data on visas and adjustments of status.</p>
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SECTION 12. ENFORCEMENT

Continued applications for asylum	<p>12(b)(e) In implementing this order, the State Department and DHS will comply with all relevant laws and regulations, including those providing individuals an opportunity to claim a fear of persecution or torture.</p> <p>The order does not apply to individuals who have been granted asylum, refugees who have already been admitted, or individuals granted withholding of removal or protection under the Convention Against Torture. The order will not limit the ability of individuals to seek asylum, withholding of removal, or protection under the Convention Against Torture.</p>	<p>Under both U.S. and international law, the United States is obligated to admit certain individuals seeking protection. The revised order clarifies that the government will continue to honor such responsibilities, even with respect to individuals banned from traveling to the United States under the above provisions.</p>
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No visa revocations	<p>12(c-d) No immigrant or nonimmigrant visa issued before the effective date of this order shall be revoked. Any individual whose visa was previously revoked as the result of the original executive order is entitled to a travel document confirming that he or she is permitted to travel to the United States, and such prior revocation will not be the basis of inadmissibility for any future adjudications.</p>	<p>After the issuance of Executive Order 13769, the State Department provisionally revoked all valid visas of nationals of the seven implicated countries. On February 4, 2017, following a court ruling temporarily restraining parts of the January executive order, the State Department lifted the provisional revocation, declaring that those visas were valid for travel.</p>
SECTION 13. REVOCATION		
Revocation of prior executive order	<p>Executive Order 13769 is revoked as of the effective date of this order.</p>	<p>By revoking and replacing Executive Order 13769 with the present order, the administration has made litigation on the prior order moot.</p>
SECTION 14. EFFECTIVE DATE		
Effective date	<p>This order is effective as of March 16, 2017, ten days after the signing.</p>	<p>(Executive Order 13769 was effective upon signing which caused chaos and confusion at U.S. airports, as some individuals lost their right to enter the United States mid-flight and agencies struggled to implement the order without prior notification.)</p>

Acknowledgments

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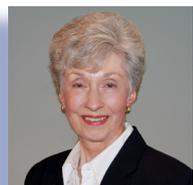
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