

5 Employer Tips For Managing The New Visa Waiver Program

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In response to the recent terrorist attacks in Paris and San Bernardino, the United States implemented restrictions to its visa waiver program that will limit visa-free travel into the U.S. for some. Now, dual citizens of Iran, Iraq, Sudan and Syria and a visa waiver program country, and those who have traveled to these four countries, must apply for a visa before they can enter the U.S. On Feb. 18, 2016, the restrictions were expanded to those who have traveled to Libya, Somalia and Yemen as well, and other countries may be added to the list. These changes will certainly impact journalists, scholars and aid workers, as well as artists and athletes traveling to the U.S. for business-related purposes.

To prepare for any potential business impact, employers should consider the following five pointers:

1. Understand the Uses of the Visa Waiver Program

According to the U.S. Department of Homeland Security, in 2014, approximately 20 million travelers entered the U.S. under the visa waiver program. This program provides business expediency for citizens of 38 countries, including many European countries, Australia and Japan, among others, by allowing residents of these countries to visit the U.S. for up to 90 days without a visa. All that is required to use the visa waiver program is to complete a brief online form and pay a nominal fee and applicants receive electronic approval to travel to the U.S. within one to two days. A benefit of the program to multinational employers is that they can quickly send employees to the U.S. for business meetings, without the delay of appearing for a visa appointment.

The changes to the visa waiver program will delay business travel for some and may come as a surprise and a burden to travelers accustomed to easy, last-minute travel to the U.S. Businesses and their international employees should take the time to understand who is impacted by the changes, and what steps they can take now to facilitate travel to the U.S., especially under urgent circumstances.

2. Understand Who is Affected by the Changes

Under the new rules, the visa waiver program is no longer available to nationals of visa waiver program countries who have traveled to or been present in Iran, Iraq, Sudan, Syria, Libya, Somalia or Yemen on or after March 1, 2011, or to dual-nationals of visa waiver program countries and Iran, Iraq, Sudan or Syria. These travelers must now obtain a visa to enter the U.S., which requires undergoing additional security screening and attending a visa interview at a U.S. consulate.

Travelers who were previously approved to use the visa waiver program who indicated they held dual nationality with one of these countries will have their eligibility to use the program revoked. Individuals currently in the U.S. who are affected by the new rules may remain in the U.S. until the end of their authorized stay, but they will be required to apply for a visa for future trips to the U.S.

One notable exception is Canadian citizens, even those with dual nationality with one of the listed countries. Canadian citizens are never required to obtain a visa to the U.S. and therefore, the new restrictions do not apply to them.

3. Waivers and Exceptions

If a traveler is subject to the new rules, he may be eligible for an exemption or a waiver based on the purpose of his trip to one of these countries. These exceptions could make the most difference to those employers most affected by the new rules. For example, individuals are exempt from the new program restrictions if they traveled to one of the four countries for diplomatic or military reasons in the service of a visa waiver program country.

Additionally, the U.S. Department of State may grant a waiver — on a case-by-case basis — if the individual traveled to one of these countries on official duty on behalf of an international or regional organization, a subnational government, a humanitarian nongovernmental organization, as a journalist for reporting purposes, or for specific business-related reasons to Iraq or Iran.

However, there is no exemption or waiver from the dual-national restriction.

Global organizations, such as news reporting agencies, universities or aid organizations, with employees who have traveled to or are planning to travel to these countries, must carefully review the waiver and exemption requirements to ultimately facilitate travel to the U.S. for their employees.

4. New Passport Requirements

An additional consideration for visa waiver program applicants is the new requirement that they must possess a machine-readable passport to use the program, meaning their passport must be electronic and fraud resistant, and must contain relevant biographic and biometric information. This requirement applies only to individuals traveling under the visa waiver program, and not to those travelers who already hold a U.S. visa.

5. How to Avoid Business Disruptions

When dealing with immigration laws — which often involves numerous government agencies and various processing times — advance planning is key.

Employers can take steps now to identify and communicate with employees who will now require a visa to the U.S. Individuals may also be affected if their spouse or traveling companion is subject to these new restrictions, so companies should encourage all travelers to the U.S. to review all relevant travel requirements well ahead of their travel date.

For emergency travel, U.S. embassies and consulates may expedite the visa application process for those with urgent business, medical or humanitarian travel needs. However, if a traveler is caught up in security checks, which may be likely given the reason for the new rules, it will be very difficult to expedite the visa process.

Further, companies who routinely send employees to Iran, Iraq, Sudan, Syria, Libya, Somalia and Yemen as part of the nature of their work should instruct their employees to apply for a visa or the relevant waiver as early as possible.

As these new rules may delay travel to the U.S. for some, businesses and their employees should remain aware of ongoing changes to U.S. travel requirements and plan their travel to the U.S. as early as possible.

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