

# PUBLICATION

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## U.S. State Department Proposes Stricter Visa Scrutiny

May 07, 2017

**The U.S. Department of State has proposed additional questioning of visa applicants believed to warrant extra scrutiny, potentially resulting in interview appointment backlogs and delays in visa issuance. The additional questioning is part of a move towards "extreme vetting" that President Trump has said is necessary to aid in enhancing U.S. security measures.**

According to a document published by the *Federal Register*, new reporting requirements will be required from certain visa applicants, estimated to be 65,000 out of about 14 million per year, in order to more thoroughly evaluate individuals for terrorism or national security related visa ineligibilities. Additional questions will include the following:

- Travel history during the last 15 years, including source of funding for travel;
- Address history during the last 15 years;
- Employment history during the last 15 years;
- All passport numbers and country of issuance held by the applicant;
- Names and dates of birth for all siblings;
- Name and dates of birth for all children;
- Names and dates of birth for all current and former spouses, or civil or domestic partners;
- Social media platforms and identifiers, also known as handles, used during the last five years; and
- Phone numbers and email addresses used during the last five years.

The *Federal Register* notice outlining the proposals said inability to provide the information does not constitute an automatic visa denial so long as applicants can provide a credible explanation, and also affirms that "the collection of social media platforms and identifiers will not be used to deny visas based on applicants' race, religion, ethnicity, national origin, political views, gender or sexual orientation."

Of particular concern from a privacy standpoint is the notion of providing social media platforms and identifiers, which is also being asked on the ESTA registration for Visa Waiver Program travelers and on EVUS for B visa travelers from China. The State Department's notice states: "The collection of social media platforms and identifiers will not be used to deny visas based on applicants' race, religion, ethnicity, national origin, political views, gender, or sexual orientation. ... Consular officers will not request user passwords and will not attempt to subvert any privacy controls the applicants may have implemented on social media platforms. Consular officers are directed not to engage or interact with individuals on or through social media; not to violate or attempt to violate individual privacy settings; and not to use social media or assess an individual's social media presence beyond established Department guidance."

Nevertheless, it seems the U.S. Government intends to connect publicly available social media information with personally identifiable information, such as names and passport numbers. U.S. port inspectors under the Department of Homeland Security have been known to search electronic devices, copy encrypted data, ask people for their device passwords and ask people for their social media usernames and passwords. Inspectors have the authority to refuse admission if the traveler does not comply. Such practices by U.S. authorities can result in reciprocal treatment by foreign governments when U.S. citizens travel.

"Collecting additional information from visa applicants whose circumstances suggest a need for further scrutiny will strengthen our process for vetting these applicants and confirming their identity," a State Department official said.

The State Department has asked the Office of Management and Budget for emergency review and approval by May 18. If implemented, visa applicants should be prepared for the possibility of delays in visa issuance, increased chances of administrative processing, and backlogs in visa appointment availability due to lengthier visa interviews. Visa applicants should also be prepared to provide the additional details highlighted above as part of both the visa application form and during the visa interview.