



## Summary of Executive Orders on Travel by Non-Citizens to the United States

The president signed [an executive order and a memorandum](#) that re-states administration policy on travel restrictions for non-citizens from certain countries. The first, entitled “Executive Order Protecting the Nation from Foreign Terrorist Entry into the United States” supersedes a prior executive order that was [ruled unconstitutional](#) by the 9<sup>th</sup> Circuit Court of Appeals. **This new order revokes the prior executive order** that was the subject of litigation and is prospective only. No immigrant or non-immigrant visa issued before the effective date of this order shall be revoked, and any individual whose visa was marked revoked or marked canceled as a result of Executive Order 13769 shall be entitled to a travel document and may seek entry. It lists six countries, Iran, Libya, Somalia, Sudan, Syria, and Yemen that are identified as countries that “are a state sponsor of terrorism, have been significantly compromised by terrorist organizations, or contain active conflict zones.” Incoming travel from those countries is restricted for 90 days, subject to certain exceptions. Iraq, listed in the original executive order, is not among the restricted countries due to its democratically elected government and its continued cooperation with the United States.

The executive order authorizes the Secretary of Homeland Security in consultation with the Secretary of State and the Director of National Intelligence to conduct a “worldwide review” to determine what, if any, additional information is needed from a foreign country to properly evaluate an application by a national of that country and make a determination of whether that person is a national security risk. Different information may be needed from different countries. The results of this worldwide review shall be reported to the president within 20 days of the executive order. Foreign countries are urged to submit information about their nationals to the Secretary of State within 50 days of notification. The Secretaries of Homeland Security and Secretary of State shall submit to the president a list of countries that have not provided the requested information and have no plan to do so and from which nationals should not be permitted entry into the U.S. This list can be modified as circumstances warrant.

Subject to exceptions or waivers, this executive order applies to nationals of the designated countries who:

1. Are outside the U.S. on the effective date of this order;
2. Did not have a valid visa at 5:00 p.m. eastern standard time on January 27, 2017; and
3. Do not have a valid visa on the effective date of this order.

**Exceptions.** The following are **exceptions** to the denial of entry:

1. Lawful permanent residents;
2. Foreign nationals who are admitted or paroled in the U.S. on or after the effective date of this order;
3. Foreign nationals who have a document other than a visa, (such as an advance parole document) valid on this order’s effective date or issued on any date thereafter that permits him or her to travel to the U.S. and seek entry or admission;

4. Any dual national of a designated country travelling on a passport issued by a non-designated country;
5. Any foreign national traveling on a diplomatic or diplomatic-type visa, North Atlantic Treaty Organization visa, C-2 visa for travel to the United Nations, or G-1, G-2, G-3, or G-4 visa;
6. Any foreign national who has been granted asylum, any refugee who has already been admitted to the U.S., or any individual who has been granted withholding of removal, advance parole, or protection under the Convention Against Torture.

**Waiver Provisions.** The Commissioner of Customs and Border Control (CBP) can grant **waivers** on a case-by-case basis when the foreign national can show undue hardship, his or her entry would not pose a threat to national security and would be in the national best interest. The waiver is good for issuance of a visa and any subsequent entry on that visa, but will leave all other requirements for admission or entry unchanged. The order also lists circumstances in which waivers could be granted:

1. The foreign national has previously been in the U.S. for a continuous period of work, seeks reentry to continue that work, and denial of reentry would impair that work;
2. The foreign national has established significant contacts with the U.S., but is outside the U.S. at the time of this order for work, study, or other lawful activity;
3. The foreign national seeks to enter the U.S. for significant business or professional obligations which would otherwise be impaired;
4. The foreign national seeks to enter the U.S. to visit or reside with a close family member (spouse, child, parent);
5. The foreign national is an infant, a young child or adoptee, an individual needing urgent medical care, or someone whose entry is otherwise justified by special circumstances;
6. The foreign national has been employed by or on behalf of the U.S. government (or is an eligible dependent) and the employee can document that he or she has provided faithful and valuable service to the U.S. government;
7. The foreign national is travelling for purposes related to an international organization designated under the International Organizations Immunities Act (IOIA) for purposes of conducting meetings or business with the U.S. government or to conduct business on behalf of an international organization not designated under the IOIA;
8. The foreign national is a landed Canadian immigrant who applies for a visa at a location within Canada; or
9. The foreign national is traveling as a U.S. government-sponsored exchange visitor.

Visa applications made by Iraqi nationals are subject to thorough review including inquiries into whether the person has ties to ISIS or another terrorist organization or would be a threat to national security.

**Admissions Process Program.** There shall be a program as part of the adjudication for admission process to detect fraudulent entry into the U.S., people who support any form of terrorism, or who present a risk of harm. This program shall include processes such as in-person interviews, a database of identity documents proffered by applicants to make sure duplicates are not used by other people, application forms designed to detect fraud and malicious intent, mechanism to ensure applicants are who they say they are and to assess their propensity to commit or support acts of violence or terrorism in the U.S., and any other information needed to assess the entry request. The Secretary of Homeland Security, Secretary of State and the Director of National Intelligence shall submit a progress report of this program to the president within 60 days of this order. Subsequent reports shall be submitted at 100 and then 200 days.

**Refugees.** The Secretary of State shall suspend travel of refugees seeking to enter the U.S. under the U.S. Refugee Admissions Program (USRAP). The Secretary of Homeland Security shall suspend all refugee applications for 120 days from the date of this order, subject to waivers and exceptions. During this suspension the provisions of the USRAP shall be examined by DHS, State and National Intelligence to determine what additional information and procedures are needed to ensure the security and welfare of the U.S. This section is not retroactive to those who have been granted refugee status prior to the date of this order. The number of refugees for FY17 is capped at 50,000, a drop from the current cap of 110,000. **States and localities should have a say on where refugees are placed in their jurisdictions to the extent permitted by law and can develop proposals to lawfully promote such involvement.**

[NCSL's immigration policy](#) urges the federal government to coordinate and consult with state and local governments on successful refugee resettlement policy. NCSL supports extended protection to victims of trafficking, victims of domestic violence, and unaccompanied minors.

**Exceptions to Refugee Suspension.** The Secretary of State and the Secretary of Homeland Security can jointly determine to admit a refugee on a case-by-case basis during the suspension period as long as it is in the national interest to do so, the refugee does not pose a threat to the U.S., it is done pursuant to a preexisting national agreement, or denial of entry would cause undue hardship.

#### **Miscellaneous Provisions.**

1. The order calls for expedited completion and implementation of a Biometric Entry-Exit Tracking System.
2. All individuals seeking a non-immigrant visa must undergo a personal interview.
3. The Secretary of State shall review all visa reciprocity agreements to ensure they are truly reciprocal and adjust fee schedules and other portions of the agreement to reflect reciprocity.

**Transparency Provisions.** The following information shall be made public 180 days after the effective date of the executive order and include the period from September 11, 2001 to the date of the initial report:

1. The number of people who have been charged with, convicted of, or removed from the U.S. for terrorism-related offenses;
2. The number of foreign nationals in the U.S. who have been radicalized after entering the U.S.;
3. The number and types of acts of gender-based violence committed against women by foreign nationals in the U.S., including "honor killings"; and
4. Any other information relevant to public safety.

Subsequent reports shall be issued every 180 days.

The Memorandum is directed to the Secretary of State, the Secretary of Homeland Security and the Attorney General and calls for them to conduct the worldwide review of information needed from foreign countries and to quickly implement protocols and procedures for enhanced vetting of visa applicants. Beginning on April 28, 2017, the Secretary of State shall publish a monthly report detailing the number of visas that have been issued from each country during the reporting period along with any other relevant information. The Secretary of Homeland Security is directed to publish reports detailing the number of adjustments of immigration status that have been made during the reporting period (every 90 days). **The Secretary of State is directed to issue reports on the estimated long-term costs of the USRAP at the federal, state, and local levels, along with recommendations on how to curtail those costs.** The Secretary of State shall also publish a report estimating how many refugees are being supported in countries of first asylum (near their home countries), for the same

long-term cost of supporting refugees in the U.S. taking into account the full lifetime cost of federal, state and local benefits and the comparable cost of providing similar benefits elsewhere.

**Resource:**

<http://www.ncsl.org/research/immigration/the-u-s-refugee-resettlement-program-a-primer-for-policy-makers.aspx>

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