

APPLYING FOR A B-1 VISA AT A U.S. CONSULATE | FAQ

1. Who needs a B-1 visa to enter the United States for a business visit?

Any foreign national who is not a citizen of a country covered by one of the United States' visa waiver programs needs a visitor's visa, also known as a B-1 visa, to enter the United States for business visits. To confirm whether you may be eligible for entry to the U.S. under the Visa Waiver Program, please review our Visa Waiver Program FAQ at <http://www.jackson-hertogs.com/?p=5517>.

2. At which U.S. consulate should I apply for a B-1 visa?

Generally, a visa applicant is expected to apply for the visa in his or her own home country. Other U.S. consulates may review a Third Country National (TCN) application for a visa stamp, but it is at the discretion of each U.S. consulate. Visa stamp applicants should always check the individual U.S. consulate's website (see the Travel Issues page on our website, <http://www.jackson-hertogs.com/?p=10>, for links to individual U.S. consulate websites) or contact the consulate to determine hours of operation, policies, procedures and consulate specific documentary requirements. Some U.S. consulates have more demanding requirements, and may require, for example, originals of documents filed with the H-1B petition as well as copies of employment contracts. Most U.S. consulates will refuse to process the visa application of a TCN who has no ties to that country; however, most of the U.S. consulates in Canada and Mexico will accept and process visa applications from TCNs. As with any U.S. consulate, however, the border consulates may reject appointment requests based on nationality of the applicant, among other reasons.

3. How does one get a visa stamp in his/her passport from a U.S. consulate?

Different U.S. consulates have different local procedures, which should be confirmed with that consulate in advance of applying for any B-1 visa. However, appointment for a visa interview is required in all circumstances. For average wait times to make an appointment at U.S. consulates around the world, see http://travel.state.gov/visa/temp/wait/wait_4638.html. During busy travel periods typically during summer and yuletide holidays, it can take a matter of weeks just to get an appointment to apply for a visa stamp. Therefore, please plan accordingly. You should also check the website of the U.S. consulate that you plan to visit for details on how to obtain an appointment as most U.S. consulates have unique appointment procedures. TCN applicants wishing to make an appointment at a U.S. Consulate in Canada or Mexico should follow these instructions:

Appointments by Telephone: If you are in the United States and you wish to schedule an appointment, you should call 1-900-443-3131; in Canada you should call 1-900-451-2778. Callers from the United States or Canada wishing to charge the cost of the call to a credit card may schedule an appointment by calling 1-888-840-0032. Unlike the 1-900 numbers, which are blocked from most hotels, office or pay telephones, the credit card line can be accessed from virtually any telephone. The appointment system requires a touch-tone phone; a push-button rotary phone will not work.

Appointments by Internet: Applicants can book appointments in Canada via the Internet at <http://usvisa-info.com/>. Each appointment costs \$9.50 Canadian as of last reporting, which can be charged to a major credit card. Applicants are advised to have their credit card information handy. Appointments for Mexico cannot be booked online at this time.

After your appointment is scheduled, you will be mailed an information packet for the post where you will be applying. Do not call an individual post directly to request an appointment. Appointment at U.S. consulates in Canada and Mexico can only be scheduled by calling the appropriate 1-900 or 1-888 telephone number or by using the Internet.

4. What documents do U.S. consulates require when applying for a visa stamp?

U.S. consulates will generally require the following documents for a B-1 visa application:

1. An "invitation" letter from the company that is inviting you to the United States. The author of the letter can be, though need not necessarily be, the U.S. office of your current employer overseas. This letter will document your purpose in visiting the United States, confirm that you are not entering the U.S. labor market, and that you will return to your employer overseas at the end of your business visit. This letter will help serve to confirm for the U.S. consulate that your activities in the United States are permitted under the terms of the B-1 visa program (**please also see Question 13**). This letter should ideally appear on the letterhead of the business entity or organization which is inviting you to visit them in the United States. Please note that an invitation letter need not always come from the U.S. office of your employer. The nature of documenting the purpose of your visit will depend upon the circumstances. For example, someone entering the U.S. to attend an international trade conference might not need a letter as such, but information regarding the conference, and proof that the visitor has been invited to attend the conference.
2. The "confirmation page" of your completed Department of State visa application form, the electronic State Department Form DS-160. You need not bring your entire DS-160 application; your DS-160 confirmation page is all the U.S. Embassy needs to retrieve your data. However, you must

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bring the DS-160 confirmation page with you during all phases of the application process. Without the confirmation page, it may not be possible to access your application and process your visa case. The DS-160 can only be created by you online; we cannot prepare it for you. Please note that it must be created not only for you, but for any and all family members who will accompany you to the United States. To create the DS-160 online, please visit the following URL: <https://ceac.state.gov/genniv>. To learn more about the DS-160, please review the State Department FAQ at this URL: http://travel.state.gov/visa/forms/forms_4401.html. If you encounter any difficulties creating the DS-160 form, please contact our office for assistance.

3. A passport-size photo taken within the last six months;
4. A passport valid for six months beyond the status expiration date on your approval notice, unless you are from one of the countries that are part of the USCBP's so-called "six month club." See the following link for a complete list of those countries belonging to the Six-Month Club: http://www.cbp.gov/linkhandler/cgov/travel/inspections_carriers_facilities/clp/bulletins/clp_bulletin_04162008.ctt/clp_bulletin_04162008.pdf.

If your country is part of the Six-Month Club, your passport must be valid for at least six months. If your passport does not extend to the required date, your admission to the U.S. will be limited to your earlier passport expiration date; and

5. Visa application fees. In addition to the machine-readable visa (MRV) fee, reciprocity fees may be charged depending upon the nationality of the applicant. Please see the Visa Reciprocity schedule, <http://www.jackson-hertogs.com/?p=5956>, for fee and visa validity period information. Note that all fees are subject to change over time.

Note: You must also contact the U.S. consulate you plan to visit to determine its hours of operation, policies, procedures, and any additional documentary requirements. See our website for links to specific consulate websites:

<http://www.jackson-hertogs.com/?p=4866>.

5. How long will the visa application process take?

Visa application procedures and processing times vary on several factors, including but not limited to the time of the year, the particular U.S. Consulate local practices, your nationality, and whether a security clearance is requested. The application process can take several days to several weeks, from the time the appointment is first requested. Note that obtaining a visa appointment can take several weeks or even longer during the peak travel seasons. For a list of average processing times and wait periods for a visa appointment at all U.S. consulates, see:

http://travel.state.gov/visa/temp/wait/wait_4638.html.

6. What is the difference between the B-1 visa stamp and the B-1 I-94?

Entering the U.S. on a B-1 visa involves two stages: obtaining the B-1 visa from a U.S. Consulate, and then entering the U.S. with that B-1 visa, and being granted a period of stay—documented by the Form I-94 Arrival-Departure Record by a U.S. Customs officer.

First comes the B-1 Visa: The B-1 visa stamp inserted into your passport by the U.S. Department of State (DOS) and contains information regarding your visa classification, your date of birth, your photo, as well as other pertinent information. The visa stamp is not removable once affixed in your passport and allows you to apply to enter into the U.S. for a limited purpose. The B-1 visa must be valid (unexpired) at the time that you apply to enter the United States. However, if the B-1 visa stamp expires after you enter the U.S., you remain in lawful status so long as the I-94 card is still valid. Visa stamps can also be valid for a single entry, a specific number of entries, or unlimited multiple entries based on reciprocity agreements between the U.S. government and your home country.

Next comes the Form I-94: The USCIB Form I-94 or your "I-94 card" is an entry card issued to you upon entry to the U.S. by the U.S. Customs and Border Protection (USCBP) inspectors. It tells USCIS and employers what status you were admitted into the U.S. and how long you are allowed to remain in the U.S. in that status. You surrender your I-94 card when you leave the U.S. (with certain exceptions for departures to Canada/Mexico of less than 30 days and for Canadian citizens traveling to Canada). If your B-1 status was changed or extended while in the U.S., the USCIS Form I-797 approval notice will also contain a new Form I-94 on the bottom third of the approval notice.

Note that travelers entering the United States through certain air or seaports may not be issued a paper Form I-94 Arrival/Departure Record. The Form I-94 serves as evidence that a nonimmigrant has been lawfully admitted to the United States. Nonimmigrants who do not receive a paper Form I-94 card at the port of entry are advised to print a copy of their Form I-94 record from the US Customs and Border Protection (CBP) website (<https://i94.cbp.dhs.gov/i94>).

7. Are there risks to applying for a B-1 visa?

If you depart the U.S. to apply for a visa stamp at a U.S. consulate abroad, and the B-1 visa application is denied, and you have no valid U.S. visa stamp in your passport, you will not be allowed re-entry to the United States. However, you can always re-apply for a B-1 visa after denial, if you feel new facts in your favor have arisen since your last visa application attempt.

8. What happens if I am selected for additional security checks?

Anyone applying for a visa stamp may also be subjected to various security checks at the discretion of the consular officer. If you are selected for additional security checks, you may be stuck outside the U.S. for weeks, or even months, until your visa application has received all security clearances. For more information, see http://www.jackson-hertogs.com/?page_id=424.

9. Must I always turn in my I-94 card when leaving the United States?

Yes, with certain exceptions. When you depart the United States, you are usually required to surrender your Form I-94 so that DHS has a record of your departure date, and you are usually not admissible to the United States without a valid visa stamp. There is a limited exception for travel to Canada/Mexico for less than 30 days. This exception is referred to as “Automatic Visa Revalidation” and applies only if you do not apply for a visa stamp at a U.S. consulate while in Canada or Mexico. Current regulations provide that if you are departing the United States for less than 30 days and are only traveling to Mexico or Canada, you are not required to surrender your original Form I-94. Further, if you did not apply for a visa stamp at a U.S. consulate in Canada or Mexico, you can be readmitted to the U.S. with your unexpired Form I-94 (and your Form I-797 approval notice with new I-94, if you had changed to or extended your B 1 status while in the United States). For more information on Automatic Revalidation, see <http://www.jackson-hertogs.com/?p=5663>.

10. Are there times when I cannot apply for a visa at a U.S. consulate in Canada or Mexico?

Yes. You are not allowed to apply for a visa stamp as a TCN in the following circumstances:

You overstayed your B-1 visa status: When you are admitted to the U.S. in B-1 status, you are provided a date by which you are expected to leave the United States. If you have ever overstayed the allowed period of time (i.e., you entered as a B-1 and remained in the U.S. one day beyond the status expiration date specified by USCBP on your I-94 card/record and had not filed a non-frivolous extension of stay before the expiration date), you are no longer eligible to obtain a nonimmigrant visa at a U.S. consulate in Canada/Mexico. You must instead apply for the visa stamp at a U.S. consulate in your country of nationality or permanent residency (barring extraordinary circumstances). In addition, if you have overstayed the date on your I-94 card/record, any existing valid visa stamps in your passport automatically become void. If you have overstayed your I-94 card/record by any period less than six months, we recommend that you always return to your home country to apply for a new visa stamp. If you have overstayed your I-94 card by six months or more, you should immediately contact an immigration attorney to determine the legal consequences, as discussed at #11 below.

You are a national of certain countries: If you are a national of North Korea, Cuba, Syria, Sudan or Iran, you are ineligible to apply for a B-1 visa in Canada. Also, if you applied for a visa in your home country previously and were informed when you obtained the original visa that you are subject to National Security Entry Exit Registrations (NSEERs), you are not eligible to apply for a visa stamp as a TCN.

The following applicants are also not eligible to apply for B-1 visa stamps as a TCN at U.S. consulates in Mexico (note that these individuals may apply as TCNs in Canada):

- Applicants who entered the U.S. with a visa issued in their home country and changed status with Department of Homeland Security in the U.S., and who now seek a new visa in the new visa category.
- Applicants who entered the United States in one visa category, and seek to re-enter the U.S. in a different visa category.
- Applicants who obtained their current visa in a country other than that of their legal residence.

11. Are there any situations where I am barred from entering the U.S.?

There are many reasons why someone may be inadmissible to the U.S. (i.e., criminal record, prior deportation, etc.). One of the most common ways to become inadmissible is by overstaying the period in which you were admitted to in the United States. If you have overstayed a “date certain” status by staying in the U.S. beyond the expiration date on your I-94 card, and therefore have been “unlawfully present” in the U.S., there may be severe consequences. If you are unlawfully present in the U.S. for over 180 days, but less than one year, and then depart the U.S., you are subject to a **3-year bar** against admission. If you are unlawfully present in the U.S. for one year or more, and then depart the U.S., you are subject to a **10-year bar** against admission. Unlawfully present refers to staying beyond the expiration date of the Form I-94 that is issued to you by either USCBP when you enter the U.S. or by USCIS when you file a COS or EOS petition.

If you discover that you have overstayed your I-94 by more than 180 days, please contact our office or seek other competent legal advice before deciding to depart the U.S.

12. Do I need a visa to visit Canada or Mexico?

Citizens of many countries are required to obtain a visa to visit Canada or Mexico. If this applies to you, you must arrange for a visa to the country you will be visiting before you can enter that country to apply for a U.S. visa stamp.

13. What kind of work may I perform as a B-1 business visitor?

You may not perform any meaningful work in the United States as a B-1 business visitor. B-1 visas are not employment visas. You may enter to perform certain types of business-related activities, such as attend meetings, conferences, and the like. It is acceptable to perform professional services only in a very limited set of circumstances. Please confirm your activities with your employer and our office in advance of your trip, in order to ensure that you will not inadvertently violate U.S. immigration rules by engaging in work-related activities not authorized by your B-1 visa.

14. What if I am a Chinese National traveling on a People's Republic of China passport with a valid 10-year B-1 visa? Must I comply with y with EVUS requirements?

Yes, you must, beginning in November 2016.

On October 20, 2016, CBP identified the People's Republic of China (PRC) as an Electronic Visa Update System (EVUS) country and designating B-1, B-2, and B-1/B-2 visas issued without restriction for the maximum validity period as designated visa categories when the visas are contained in a passport issued by the PRC.

Beginning in November 2016, all nationals of the People's Republic of China holding valid 10-year B1/B2, B1 or B2 visas who travel to the United States on a passport issued by the People's Republic of China must comply with EVUS requirements regardless of their current residence. EVUS is the online system used by Chinese nationals holding 10-year B1/B2, B1, or B2 visas. Chinese nationals with other types of visas are not subject to EVUS requirements. Travelers using other travel documents, including Hong Kong SAR, Macau SAR, and Taiwan passports are not subject to EVUS requirements.