9 FAM 402.2

[REDACTED] TOURISTS AND BUSINESS VISITORS AND MEXICAN BORDER CROSSING CARDS – B VISAS AND BCCS

(CT:VISA-2182; 09-17-2025)
(Office of Origin: CA/VO)

9 FAM 402.2-1 (U) STATUTORY AND REGULATORY AUTHORITIES

9 FAM 402.2-1(A) (U) Immigration and Nationality Act

(CT:VISA-1; 11-18-2015)

(U) INA 101(a)(6) (8 U.S.C. 1101(a)(6)); INA 101(a)(15)(B) (8 U.S.C. 1101(a)(15)(B)); INA 101(a)(33); INA 212(q) (8 U.S.C. 1182(q)).

9 FAM 402.2-1(B) (U) Code of Federal Regulations

(CT:VISA-1; 11-18-2015)

(U) 22 CFR 41.31; 22 CFR 41.32

9 FAM 402.2-2 (U) OVERVIEW

9 FAM 402.2-2(A) (U) Introduction to B Visas

(CT:VISA-778; 05-13-2019)

(U) Visitor visas are nonimmigrant visas for persons who want to enter the United States temporarily for business (B-1), or for pleasure (B-2), or a combination of both purposes (B-1/B-2).

9 FAM 402.2-2(B) (U) Temporary Visitors

(CT:VISA-1963; 04-01-2024)

a. **(U)** Factors to be used in determining eligibility for Temporary Visitor Classification are as follows:

(1) **(U)** In determining whether visa applicants are eligible for temporary visitor classification, you must assess whether the applicants:

(a) **(U)** Have a residence in a foreign country, which they do not intend to abandon;

(b) **(U)** Intend to enter the United States for a period of specifically limited duration; and

(c) **(U)** Seek admission for the sole purpose of engaging in legitimate activities relating to business or pleasure.

(2) **(U)** If an applicant for a B-1/B-2 visa fails to meet one or more of the above criteria, you must refuse the applicant under INA 214(b). See 9 FAM 302 for a complete discussion on Refusals Under INA 214(b).

b. **(U)** If you doubt an applicant's intent to return abroad, the applicant cannot satisfy your doubts by offering to leave a child, spouse, or other dependent abroad.

9 FAM 402.2-2(C) (U) Residence Abroad

(CT:VISA-1963; 04-01-2024)

(U) The term "residence" is defined in INA 101(a)(33) as the place of general abode; the place of general abode of a person means their principal, actual dwelling place in fact, without regard to intent. Only the following visa categories are subject to the residence abroad requirement: B, F, H (except H-1), J, M, O-2, P, and Q. When adjudicating this requirement, it is essential to view the requirement within the context of the visa classification. See 9 FAM 401.1-3(E) for a more in-depth definition of residence abroad.

9 FAM 402.2-2(D) (U) Temporary Period of Stay

(CT:VISA-1288; 05-21-2021)

a. **(U)** Although "temporary" is not specifically defined by either statute or regulation, it generally signifies a limited period of stay. The fact that the period of stay in a given case may exceed six months or a year is not in itself controlling, if you are satisfied that the intended stay has a time limitation and is not indefinite in nature.

b. **(U)** The period projected for the visit must be consistent with the stated purpose of the trip. The applicant must establish with reasonable certainty that departure from the United States will take place upon completion of the temporary visit.

c. **(U)** The applicant must have specific and realistic plans for the entire period of the contemplated visit.

d. **(U)** In evaluating these cases, you should not focus on the absolute length of the stay, but on whether the stay has some finite limit. For example, the temporariness requirement would be met in a case where the cohabitating partner will accompany, and depart with, the "principal" applicant on a two-year work assignment or a four-year degree program.

9 FAM 402.2-2(E) (U) Unlawful Activity While in Visitor Status

(CT:VISA-1625; 09-08-2022)

a. **(U)** The law contemplates that an applicant is traveling to the United States for legal purposes. Therefore, an application for a visitor visa must be denied in those cases where you have reason to believe or know that, while in the United States as a visitor, the applicant will engage in unlawful or criminal activities.

b. **(U)** The arrangements which the applicant has made for defraying the expenses of their visit and return abroad must be adequate to prevent their obtaining unlawful employment in the United States.

9 FAM 402.2-2(F) (U) Importance of Facilitating International Travel

(CT:VISA-1730; 03-10-2023)

a. **(U)** The policy of the U.S. Government is to facilitate and promote legitimate international travel and the free movement of people of all nationalities to the United States, consistent with national security and public safety concerns, both for the cultural and social value to the world and for economic purposes.

b. **(U)** You should, where appropriate, expedite applications for the issuance of a visitor visa for urgent business travelers and those with emergent or humanitarian purposes of travel, if the issuance is consistent with U.S. immigration laws and regulations. You must be satisfied that the applicants have overcome the presumption that they are intending immigrants. See 9 FAM 403.3-3 and 7 FAH-1 H-263.7 for more information on scheduling appointments and handling expedite requests.

9 FAM 402.2-3 (U) CATEGORIES OF B VISAS

(CT:VISA-1288; 05-21-2021)

(U) 22 CFR 41.12 identifies the following B visa classification symbols for applicants engaging in temporary business (B-1), tourism, pleasure or visiting (B-2), or a combination of both purposes in accordance with INA 101(a)(15)(B):

B-1	Temporary Visitor for Business
B-2	Temporary Visitor for Pleasure
B-1/B-2	Temporary Visitor for Business & Pleasure

9 FAM 402.2-4 (U) TOURIST VISAS (B-2) - APPLICANTS COMING TO THE UNITED STATES AS VISITORS FOR PLEASURE

9 FAM 402.2-4(A) (U) Visitors for Pleasure

(CT:VISA-1963; 04-01-2024)

(U) Applicants who wish to enter the United States temporarily for pleasure, and who are otherwise eligible to receive visas, may be classifiable as nonimmigrant B-2 visitors if they meet the criteria listed below.

(1) **(U) Tourism or Family Visits:** Applicants traveling to the United States for purposes of tourism or to make social visits to relatives or friends.

(2) **(U) Medical Reasons:** Applicants coming to the United States for medical treatment. If an applicant is traveling to receive medical treatment, then you must be satisfied that a medical practitioner in the United States has agreed to treat the applicant, and the applicant must provide information indicating the projected cost of treatment and any incidental expenses. You must be satisfied that the applicant has the means derived from legal sources and the intent to pay for the medical treatment and all incidental expenses, including transportation and living expenses, doctors, and hospitalization fees, as well as other medical and related expenses, either independently or with the pre-arranged assistance of others. To evaluate this and the credibility of the applicant's purpose of travel, you may ask for documentation, including:

  (a) **(U)** a medical diagnosis from a local physician, explaining the nature of the ailment and the reason the applicant seeks medical treatment in the United States;

  (b) **(U)** a letter from a physician or medical facility in the United States stating that they are willing to treat the applicant's specific ailment and detailing the projected length and cost of treatment, including doctors' fees, hospitalization fees, and all medical-related expenses; and

  (c) **(U)** evidence that the applicant's transportation, medical, and living expenses in the United States will be paid. This may be in the form of bank or other statements of income/savings or certified copies of income tax returns of either the applicant or the person/organization paying for treatment.

(3) **(U) Participation in Social or Religious Activities:** Applicants participating in conventions, conferences, or convocation of fraternal, social, religious, or service organizations.

(4) **(U) Armed Forces Dependents:** Dependents of an applicant member of any branch of the U.S. Armed Forces temporarily assigned for duty in the United States.

(5) **(U) Dependents of Crewmembers:** Applicant dependents of category "D" visa crewmembers who are coming to the United States solely to accompany the principal applicant.

(6) **(U) Short Course of Avocational/Recreational Study:** Applicants coming to the United States primarily for tourism, who also incidentally will engage in a short course of study during their visit; or, applicants whose primary purpose of travel is avocational/recreational study. See 9 FAM 402.2-4(B)(9) and 9 FAM 402.5-5(I)(3). The following annotation is to be

placed in the 88-character field of the visa: STUDY INCIDENTAL TO VISIT—Form I-20 NOT REQUIRED.

(7) **(U) Amateur Entertainers and Athletes:** A person who is an amateur in an entertainment or athletic activity is, by definition, not a member of any of the profession associated with that activity. An amateur is someone who normally performs without remuneration (other than an allotment for expenses). A performer who is normally compensated for performing cannot qualify for a B-2 visa based on this note even if the performer does not make a living at performing or agrees to perform in the United States without compensation. Thus, an amateur (or group of amateurs) who will not be paid for performances and will perform in a social and/or charitable context or as a competitor in a talent show, contest, athletic event, or other similar activity is eligible for B-2 classification, even if the incidental expenses associated with the visit are reimbursed.

(8) **(U) Travel to give birth in the United States:** Visiting temporarily for pleasure does not include travel for the primary purpose of obtaining U.S. citizenship for a child by giving birth in the United States. Any B NIV applicant who you have reason to believe will give birth during their stay in the United States is presumed to be traveling for the primary purpose of obtaining U.S. citizenship for the child. The applicant can overcome this presumption if you find that the primary purpose of travel is not obtaining U.S. citizenship for a child. **This guidance does not affect DHS regulations or guidance regarding the admissibility of noncitizens, including Visa Waiver Program travelers, or otherwise modify the standards enforced by DHS officials.**

(a) **(U)** You must determine whether there is a reason to believe a B NIV applicant will travel for the primary purpose of giving birth in the United States. You may have reason to believe an applicant will give birth because they indicate that purpose of travel in the DS-160 application form or during the visa interview. For example, a B-2 NIV applicant has the option of specifying "Tourism/ Medical Treatment" as the purpose of trip to the United States on the DS-160. If you have reason to believe the applicant will give birth in the United States during their intended stay, you should continue to evaluate the credibility of the applicant's claimed purpose of travel by asking all necessary questions and reflect your findings in the case notes. However, you must not ask a visa applicant whether they are pregnant unless you have a specific articulable reason to believe they may be pregnant and planning to give birth in the United States. You should document any such reason in your case notes. You must not, as a matter of course, ask all female applicants (or any specific sub-sets of applicants) whether they are pregnant or intend to become pregnant; you also may not require B NIV applicants to provide evidence that they are not pregnant. Additionally, you should remember, when posing your questions, that pregnancy can be a sensitive topic. Therefore, you are reminded to use your discretion as to whether conducting a private interview (such as in a privacy booth, if available) is warranted. Further, do not automatically refer these cases to the FPU unless there are legitimate fraud concerns that a routine visa interview cannot address.

(b) **(U)** You should assess only the applicant's current purpose of travel and must not factor in the possibility that the applicant may become pregnant at some future date, if the applicant is otherwise eligible and satisfies you that they have a legitimate purpose for travel. You should not limit the validity of a visa for an otherwise qualified B NIV applicant, as reflected in the reciprocity schedule, solely because the applicant is pregnant or may become pregnant in the future.

(c) **(U)** If you have reason to believe the applicant will give birth during their stay in the United States, you are required to presume that giving birth to obtain U.S. citizenship is the applicant's primary purpose of travel. This presumption is rebuttable, meaning the applicant can overcome the presumption that they are traveling for the primary purpose of obtaining U.S. citizenship for the child if you determine that the applicant has established, to your satisfaction, a different and permissible primary purpose of travel. For example, an applicant might overcome the presumption if they have a medically complicated pregnancy and have arranged for specialized medical care in the United States, because such specialized care is not available in or near the country where the applicant resides. In such a case, you may conclude the applicant's primary purpose of travel is for specialized medical care, as opposed to seeking U.S. citizenship for the child.

(d) **(U)** Medical care is not the only way the presumption can be rebutted. For example, if a B NIV applicant's primary purpose for travel to the United States is to visit a dying family member, and during the visit the applicant may give birth in the United States because the pregnancy due date overlaps with the family member's last expected months of life, the applicant may be able to rebut the presumption. In such a case, the applicant must satisfy you that the primary purpose is to visit a dying relative rather than to obtain U.S. citizenship for a child. Similarly, an applicant for a B NIV who you conclude does not intend to, and will not, give birth in the United States, or who otherwise rebuts the presumption that they intend to travel to the United States primarily to obtain U.S. citizenship for a child, must not be refused solely because the applicant is or intends to become pregnant. If a child would acquire U.S. citizenship at birth if born outside the United States, the presumption does not apply.

(e) **(U)** The fact that an applicant has an arranged birth plan with a doctor or medical facility in the United States, or simply expresses a preference to give birth in the United States over other locations, is not sufficient to rebut the presumption that their primary purpose of travel is obtaining U.S. citizenship for the child. One key factor you should consider is whether the applicant has access to reasonable medical care in or near the country where the applicant resides.

(f) **(U)** If a visa applicant's primary purpose of travel is to assist or accompany another visa applicant whose application does not qualify for visa issuance, you should closely evaluate whether the applicant has a different, legitimate, purpose of travel. The lack of such a legitimate purpose of travel could cast doubt on their credibility and qualification for a B visa. See 9 FAM 302.1-2(B) for guidance on the application of INA 214(b).

(g) **UNAVAILABLE.**

9 FAM 402.2-4(B) (U) Visitors under Special Circumstances

(CT:VISA-1288; 05-21-2021)

(U) The following classes of applicants may be classified B-2 visitors under the following special circumstances.

9 FAM 402.2-4(B)(1) (U) Fiancé(e) of U.S. Citizens or Lawful Permanent Residents

(CT:VISA-1730; 03-10-2023)

(U) An applicant proceeding to the United States to marry a U.S. citizen petitioner within 90 days of admission is classifiable as a K-1 nonimmigrant under INA 101(a)(15)(K). See 22 CFR 41.81. The fiancé(e) of a U.S. citizen or LPR may, however, be classified as a B-2 visitor if you are satisfied that the fiancé(e) intends to return to a residence abroad soon after the marriage. A B-2 visa may also be issued to an applicant coming to the United States:

- **(U)** Simply to meet the family of their fiancé(e);
- **(U)** To become engaged;
- **(U)** To plan the wedding; or
- **(U)** To renew a relationship with the prospective spouse.

9 FAM 402.2-4(B)(2) (U) Fiancé(e) of Nonimmigrant in United States

(CT:VISA-1963; 04-01-2024)

(U) Fiancé(e)s who establish a residence abroad to which they intend to return, and who are otherwise qualified to receive visas, are eligible for B-2 visas if the purpose of the visit is to marry a nonimmigrant in the United States in valid nonimmigrant F, H, J, L, M, O, P, or Q status. If the fiancé(e) does not intend to depart after the marriage takes place, they would need to apply for a change in nonimmigrant status to that of the derivative of the nonimmigrant spouse soon after the marriage to the nearest DHS office. Issuance of a B-2 visa is not appropriate if the fiancé(e) intends to remain permanently (rather than, for example, until the conclusion of their time in derivative

nonimmigrant status) in the United States after admission, even if they would seek to do so by filing an adjustment of status application.

9 FAM 402.2-4(B)(3) (U) Proxy Marriage Spouse

(CT:VISA-1963; 04-01-2024)

(U) A spouse married by proxy to a nonimmigrant in the United States may be issued a B-2 visitor visa to join the spouse already in the United States. Upon arrival in the United States, the joining spouse must apply to the DHS for permission to change to the appropriate derivative nonimmigrant status after consummation of the marriage. Issuance of a B-2 visa is not appropriate if the applicant intends to remain permanently (rather than, for example, until the conclusion of their time in derivative nonimmigrant status) in the United States after admission, even if they would seek to do so by filing an adjustment of status application.

9 FAM 402.2-4(B)(4) (U) Spouse or Child of U.S. Citizen or Noncitizen Resident

(CT:VISA-1288; 05-21-2021)

(U) An applicant spouse or child, including an adopted applicant child, of a U.S. citizen or noncitizen resident may be classified as a nonimmigrant B-2 visitor if the purpose of travel is to accompany or follow to join the spouse or parent for a temporary visit.

9 FAM 402.2-4(B)(5) (U) Cohabitating Partners, Extended Family Members, and Other Household Members Not Eligible for Derivative Status

(CT:VISA-1963; 04-01-2024)

(U) The B-2 classification is appropriate for applicants who are members of the household of another noncitizen in long-term nonimmigrant status, but who are not eligible for derivative status under that applicant's visa classification. This is also an appropriate classification for applicants who are members of the household of a U.S. citizen who normally lives and works overseas but is returning to the United States for a temporary period. Such applicants include but are not limited to the following: cohabitating partners or elderly parents of temporary workers, students, foreign government officials or employees posted to the United States, officers or employees of an international organization posted to the United States and accompanying parent(s) of a minor F-1 child-student. B-2 classification may also be accorded to a spouse or child who qualifies for derivative nonimmigrant status (other than derivative A or G status) as an eligible immediate family member, but for whom it may be inconvenient or impossible to apply for the proper H-4, L-2, F-2, or other nonimmigrant derivative visa, if the applicant (the derivative) intends to maintain a residence outside the United States and otherwise meets the B visa eligibility requirements. If such individuals plan to stay in the United States for more than six months, you should advise them to ask DHS for a one-year stay when they apply for admission. If needed, they may thereafter apply to USCIS for extensions of stay, in increments of up to six months, for the duration of the principal's nonimmigrant status in the United States. You should consider annotating the visa to indicate the purpose of travel and the length of stay in such cases.

9 FAM 402.2-4(B)(6) (U) Applicants Seeking Naturalization under INA 329

(CT:VISA-1288; 05-21-2021)

(U) An applicant who is entitled to the benefits of INA 329, and who seeks to enter the United States to take advantage of such benefits, may be classified B-2 without having to meet the foreign residence abroad requirement of INA 101(a)(15)(B).

9 FAM 402.2-4(B)(7) (U) Children Seeking Expeditious Naturalization under INA 322

(CT:VISA-1963; 04-01-2024)

a. **(U)** Naturalization under INA 322 is a permissible activity in B-2 status. You may issue a B-2 visa to an eligible foreign-born child to facilitate that child's expeditious naturalization pursuant to INA 322. The child must be under the age of 18 when INA 322 requirements are met. The child's intended naturalization, however, does not exempt the child from INA 214(b); the child must intend to return to a residence abroad after naturalization. A child whose parents are residing abroad will generally overcome the presumption of intended immigration, if the parents do not intend to resume residing in the United States, whereas a child whose parents habitually reside in the United States will not.

b. **(U)** If the applicant for an NIV to facilitate naturalization under INA 322 is the adopted foreign-born child of a U.S. citizen who resides abroad and does not intend to reside permanently in the United States, you may issue a B-2 visa if the applicant:

- **(U)** Presents a USCIS-issued appointment notification signifying the child has an appointment for a naturalization interview regarding a Form N-600K, Application for Citizenship and Issuance of Certificate; and
- **(U)** Overcomes INA 214(b).

c. **(U)** Form I-864, Affidavit of Support Under INA 213A, is not required because the child is applying for a nonimmigrant visa, not an IV subject to that requirement.

d. **(U)** The child would not qualify for a B-2 visa if the family were relocating to the United States. If this were the case, then the child would be required to have an IV. You should not issue an NIV in lieu of the IR3/4 for an orphan or IR2 for an adopted child. The issuance of an NIV to an orphan who is an intending immigrant violates the law, places the child in an untenable immigration predicament, and circumvents the scrutiny intended to protect the orphan and the adoptive parents. The issuance of an NIV also does not accomplish the intended goal since the orphan cannot adjust status under DHS regulations.

9 FAM 402.2-4(B)(8) (U) Dependents of Noncitizen Members of U.S. Armed Forces Eligible for Naturalization under INA 328

(CT:VISA-1963; 04-01-2024)

a. **(U)** An applicant who is a dependent of a noncitizen member of the U.S. Armed Forces who qualifies for naturalization under INA 328 and whose primary intent is to accompany the spouse or parent on the service member’s assignment to the United States may be issued a B visa. The future possibility of adjustment of status need not necessitate a “refusal of visa” under INA 214(b). A dependent of a noncitizen service member who is refused a visa under INA 214(b) as an intending immigrant must be referred to the DHS office having jurisdiction over the dependent’s place of residence for parole consideration under INA 212(d)(5).

b. **(U)** Since the purpose of parole in these cases is to serve humanitarian interests, it is not appropriate for a dependent to seek parole from DHS to enter the United States while the service member served a tour of duty outside the United States.

9 FAM 402.2-4(B)(9) (U) Applicants Enrolling in an Avocational or Recreational School

(CT:VISA-1963; 04-01-2024)

(U) An applicant enrolling in such a school may be classified B-2 if the purpose of attendance is recreational or avocational in nature. When the nature of a school’s program is difficult to determine, you should request from DHS the proper classification of the program and whether approval of Form I-20, Certificate of Eligibility for Nonimmigrant (F-1) Student Status – for Academic and Language Students, will be more appropriate. See 9 FAM 402.5-5(I)(3) and 9 FAM 402.5-5(I)(4).

9 FAM 402.2-4(B)(10) (U) Lawful Permanent Resident (LPR) Issued Nonimmigrant Visitor Visa for Emergency Temporary Visit to United States

(CT:VISA-1826; 09-06-2023)

(U) An LPR may, in some cases, need to get a visa more quickly than obtaining a returning resident visa would permit. For example: a permanent resident employed by a U.S. corporation may be temporarily assigned abroad which requires them to remain out of the United States for more than one year. They may be issued an NIV to travel to the United States for urgent business meeting and Form I-551 need not be surrendered. The relinquishment of the I-551 must not be required as a condition precedent to the issuance of either an immigrant or NIV unless DHS has requested such action. You may wish to limit and annotate the visa to reflect the nature of the LPR's travel, and to provide additional information to POEs.

9 FAM 402.2-4(B)(11) (U) Child Coming to United States for Acquisition of Citizenship

(CT:VISA-1963; 04-01-2024)

(U) You may issue a B-2 visa to a child seeking to enter the United States for the acquisition of U.S. citizenship under the Child Citizenship Act of 2000 (Public Law 106-395) if the child demonstrates an intent to return abroad after a temporary stay in the United States.

9 FAM 402.2-5 (U) BUSINESS VISAS (B-1)

9 FAM 402.2-5(A) (U) Overview of Business Visas

(CT:VISA-1826; 09-06-2023)

a. **(U)** Applicants who desire to enter the United States for business and who are otherwise eligible for visa issuance, may be classifiable as nonimmigrant B-1 visitors if they meet the criteria described in 9 FAM 402.2-5(B) through (F) below. Engaging in business contemplated for B-1 visa classification generally entails business activities other than the performance of skilled or unskilled labor. Thus, the issuance of a B-1 visa is not appropriate for applicants who intend to obtain and engage in employment while in the United States. Specific circumstances or past patterns have been found to fall within the parameters of this classification and are listed below.

b. **(U)** It can be difficult to distinguish between appropriate B-1 business activities, and activities that constitute skilled or unskilled labor in the United States that are not appropriate in B status. The clearest legal definition comes from the decision of the Board of Immigration Appeals in Matter of Hira, affirmed by the Attorney General. Hira involved a tailor measuring customers in the United States for suits to be manufactured and shipped from outside the United States. The decision stated that this was an appropriate B-1 activity because the principal place of business and the actual place of accrual of profits, if any, was in the foreign country. Most of the following examples of appropriate B-1 activity relate to the Hira ruling, in that they relate to activities that are incidental to work that will principally be performed outside of the United States.

c. **(U)** You may encounter a case involving temporary employment in the United States, which does not fall within the categories listed below. You should submit such cases to the Office of the Legal Adviser for Consular Affairs (L/CA) in accordance with the procedures in 9 FAM 402.2-5(H) below for an AO to ensure uniformity and proper application of the law.

9 FAM 402.2-5(B) (U) Applicants Traveling to the United States to Engage in Commercial Transactions, Negotiations, Consultations, Conferences, Etc.

(CT:VISA-1963; 04-01-2024)

(U) Applicants should be classified B-1 visitors for business, if otherwise eligible, if they are traveling to the United States to:

(1) **(U)** Engage in commercial transactions which do not involve gainful employment in the United States (such as a merchant who takes orders for goods manufactured abroad);

(2) **(U)** Negotiate contracts;

(3) **(U)** Consult with business associates;

(4) **(U)** Litigate;

(5) **(U)** Participate in scientific, educational, professional, or business conventions, conferences, or seminars; or

(6) **(U)** Undertake independent research.

9 FAM 402.2-5(C) (U) Applicants Coming to United States to Pursue Employment as a Necessary Incident To their Professional Business Activities

(CT:VISA-2145; 04-14-2025)

a. **(U)** The statutory terms of INA 101(a)(15)(B) specifically exclude from this classification applicants coming to the United States to perform skilled or unskilled labor. Applicants coming to the United States to pursue employment which does not qualify them for A, C, D, E, G, H, I, J, L, O, P, Q, R or NATO status, are not classifiable as B-1 and must be classified as immigrants. However, an applicant may be eligible for a B-1 business visa if they meet the criteria of one of the categories listed below.

b. **(U)** You may issue combined B-1/B-2 visas to qualified applicants whose principal purpose for visiting the United States at various times falls within the B-1 or B-2 category. See 9 FAM 402.2-6(A). Annotations must be included when required and may be included when helpful. See 9 FAM 403.9-5.

9 FAM 402.2-5(C)(1) (U) Members of Religious Groups

(CT:VISA-2067; 09-12-2024)

a. **(U)** Religious leaders and members of religious denominations or groups meeting the following criteria may be issued B-1 visas.

(1) **(U)** Members of religious groups proceeding to the United States to engage in a religious tour who do not plan to take an appointment with any one place of worship and who will be supported by offerings contributed at each religious meeting. See 9 FAM 403.9-5(B).

(2) **(U)** Members of religious groups temporarily exchanging pulpits with U.S. counterparts who will continue to be reimbursed by the foreign religious entity and will draw no salary from the religious entity in the United States.

(3) **(U)** Members of religious groups, whether ordained or not, entering the United States temporarily for the sole purpose of performing missionary work on behalf of a denomination, so long as the work does not involve the selling of articles or the solicitation or acceptance of donations and if the member will receive no salary or remuneration from U.S. sources other than an allowance or other reimbursement for expenses incidental to the temporary stay. "Missionary work" for this purpose may include religious instruction, participation in religious ceremonies, aid to the elderly or needy, proselytizing, etc. It does not include ordinary administrative work, nor should it be used as a substitute for ordinary labor for hire.

b. (U) In cases where an applicant is coming to perform voluntary services for a religious organization, and does not qualify for R status, the B-1 status remains an option, if the applicant meets the requirements in 9 FAM 402.2-5(C)(2) below, even if they intend to stay a year or more in the United States.

9 FAM 402.2-5(C)(2) (U) Participants in Voluntary Service Programs

(CT:VISA-1826; 09-06-2023)

a. **(U)** Applicants participating in a voluntary service program benefiting U.S. local communities, who establish that they are members of, and have a commitment to, a specific recognized religious or

nonprofit charitable organization. No salary or remuneration should be paid from a U.S. source, other than an allowance or other reimbursement for expenses incidental to the volunteers' stay in the United States.

b. **(U)** A "voluntary service program" is an organized project conducted by a recognized religious or nonprofit charitable organization to assist the poor or the needy or to further a religious or charitable cause. The program may not, however, involve the selling of articles and/or the solicitation and acceptance of donations. The burden that the voluntary program meets the DHS definition of "voluntary service program" is placed upon the recognized religious or nonprofit charitable organization, which must also meet other criteria set out in the DHS Operating Instructions regarding voluntary workers.

c. **(U)** You must assure that the written statement issued by the sponsoring organization is attached to the passport containing the visa for presentation to the DHS officer at the POE. The written statement will be furnished by the applicant participating in a service program sponsored by the religious or nonprofit charitable organization and must contain DHS required information such as the:

- **(U)** Volunteer's name and date and place of birth;
- **(U)** Volunteer's foreign permanent residence address;
- **(U)** Name and address of initial destination in the United States; and
- **(U)** Volunteer's anticipated duration of assignment.

9 FAM 402.2-5(C)(3) (U) Members of Board of Directors of U.S. Corporation

(CT:VISA-1288; 05-21-2021)

(U) An applicant who is a member of the board of directors of a U.S. corporation seeking to enter the United States to attend a meeting of the board or to perform other functions resulting from membership on the board.

9 FAM 402.2-5(C)(4) (U) Professional Athletes and Personnel Necessary to the Performance of an Individual Athlete or Sports Team

(CT:VISA-2182; 09-17-2025)

a. **(U)** Professional athletes who receive no salary or payment from a U.S. source other than prize money for their participation in a tournament or sporting event may be issued a visa if:

(1) **(U)** The foreign athlete's principal place of business or activity is in a foreign country;

(2) **(U)** The athlete's salary principally accrues in a foreign country; and

(3) **(U)** If the foreign athlete plays a team-based sport, the foreign-based sports team is a member of an international sports league, or the sporting activities involved have an international dimension.

b. (U) Many individual and team-based sports rely on necessary personnel who support the professional athletes. Such personnel encompass a wide variety of roles, and each play a necessary part in the individual athlete's or team's ability to successfully perform. Examples of such individuals include coaching staff, team principals, athletic trainers and fitness instructors, medical support staff, nutritionists, equipment specialists, pit crew, engineers, technicians, mechanics, strategists, and performance/data analysts. Necessary personnel may be issued a B-1 visa if:

(1) **(U)** They perform, for compensation, the same or similar services abroad for the individual athlete or foreign sports team;

(2) **(U)** The athlete or foreign sports team has their principal place of business or activity in a foreign country; and

(3) **(U)** Their salary principally accrues in a foreign country.

c. **(U)** Amateur athletes who are asked to join a professional team during the regular professional season or playoffs for brief try-outs may be issued a B-1 visa if the team will provide only for

incidental expenses such as round-trip fare, hotel room, meals, and transportation. A B-1 visa would no longer be appropriate for travel to the United States to engage in athletic competition with the team after an athlete is hired to play for the professional team.

9 FAM 402.2-5(C)(5) (U) Yacht Crewmen

(CT:VISA-1963; 04-01-2024)

(U) Yacht crew who will provide services on board a recreational vessel who are able to establish that they have a residence abroad which they do not intend to abandon, regardless of the country of registration of the yacht, are classifiable B-1. You should be aware that privately owned yachts may be chartered while abroad but used for personal use while in U.S. territorial waters. Websites related to the charter business may not reflect this. See 9 FAM 402.8-3(A)(1).

9 FAM 402.2-5(C)(6) (U) Coasting Officers

(CT:VISA-1288; 05-21-2021)

(U) See 9 FAM 402.8-5 for applicants seeking to enter the United States as "coasting officers."

9 FAM 402.2-5(C)(7) (U) Investor Seeking Investment in the United States

(CT:VISA-1963; 04-01-2024)

(U) An applicant seeking investment in the United States, including an investment that would qualify them for status as an E-2 nonimmigrant investor, is not ineligible for a B visa on that basis alone. Similarly, an applicant pursuing an EB-5 IV may be issued a B visa to examine or monitor potential qualifying investments if the applicant otherwise establishes qualification for a B visa, including that they do not intend to enter the United States to pursue adjustment of status. Applicants seeking investment, like all B-1/B-2 travelers, are precluded from performing productive labor or from actively participating in the management of the business while in the United States in B status.

9 FAM 402.2-5(C)(8) (U) Equestrian Sports

(CT:VISA-1288; 05-21-2021)

(U) An applicant coming to the United States to perform services on behalf of a foreign-based employer as a jockey, sulky driver, trainer, or groomer, may be classifiable as B-1.

9 FAM 402.2-5(C)(9) (U) B-1 Visa for Transit or Travel to the Outer Continental Shelf (OCS)

(CT:VISA-1826; 09-06-2023)

a. **(U) In General:** Applicants seeking to transit or travel to the United States to access the U.S. Outer Continental Shelf (OCS) to join a unit that is engaged in OCS activity (to include a vessel, rig, platform, or other vehicle or structure) may qualify for a B-1 visa if the applicant is not otherwise ineligible for the B-1 visa and the applicant has a letter from the U.S. Coast Guard (USCG). Transit and travel to the OCS is not permissible on a C-1/D. For permissible activity on a C-1/D, see 9 FAM 402.4 and 9 FAM 402.8.

b. **(U) "OCS activity" Defined:** An "OCS activity" is defined in USCG regulations (33 CFR 140.10) as "any offshore activity associated with the exploration for, or development or production of, the minerals of the [OCS]." This definition refers only to oil and gas activity occurring on the OCS; it does not include wind farm activities. See paragraph j below regarding other activities that may occur on the OCS which are unrelated to "minerals of the OCS" and for which no USCG letter would be issued.

c. **(U) Manning Requirements or Restrictions:** The Outer Continental Shelf Lands Act Amendments of 1978 (OCSLA) were enacted on September 18, 1978, and provide for certain documentary, registry, and manning requirements of all units operating on the OCS that are engaged in OCS activity, unless specifically excepted from such requirements. Units operating on the OCS and engaged in OCS activity must employ only U.S. citizens or LPR as members of the "regular complement of the unit" (which is defined in paragraph d below) unless otherwise

authorized by the USCG as evidenced by a USCG letter. There are no citizenship restrictions on individuals who are not members of the "regular complement of a unit." See paragraph e below.

d. **(U) Members of the "regular complement of a unit":** Members of the "regular complement of a unit" means those personnel that are necessary for the routine functioning of the unit, including marine officers and crew; industrial personnel on the unit, such as tool-pushers, drillers, roustabouts, floor hands, crane operators, derrickmen, mechanics, motormen, and general maintenance personnel; and support personnel on the unit, such as cooks, stewards, and radio operators. See 31 CFR 141.15(b).

e. **(U) Personnel who are NOT members of the "regular complement of a unit":** Applicants who are not members of the "regular complement of a unit" include specialists, professionals, or other technically trained personnel called in to handle emergencies or other temporary operations, and extra personnel on a unit for training or for specialized operation (i.e., construction, alteration, well logging, or unusual repairs or emergencies).

f. **(U) OCS Letters Issued by the U.S. Coast Guard:** The USCG will issue one of three types of letters. Each of the letters identified below may be accepted as evidence that the employer of personnel or the owner/operator of the unit has complied with the manning requirements explained above. In all cases, these letters authorize the employer of personnel or owner/operator of the unit to employ individuals who are not U.S. nationals or LPRs. These letters, however, are not evidence of factual employment, but only demonstrate compliance with the OCSLA manning requirements. Moreover, these letters are only relevant for visa adjudication purposes when a unit is engaging in OCS activity on the OCS. The three letters are as follows:

(1) **(U) Letter of Exemption (LOE):** The LOE serves as certification from the USCG that an employer or owner/operator of a unit may employ individuals who are not U.S. nationals or LPRs on board the unit in the regular complement positions identified. The LOE is valid for 1 year. Without this letter, these positions would be required to be filled with U.S. citizens or LPRs.

(2) **(U) Letter of Non-applicability (LOA):** The LOA certifies that the unit is exempt from the OCSLA manning requirements. This means there are no restrictions on employment and, therefore, an employer of personnel or owner/operator may employ individuals who are not U.S. nationals or LPRs in every position on board the unit. The LOA does not include an expiration date.

(3) **(U) Letter of Determination (LOD):** The LOD certifies that the applicant (or position the applicant will be filling) has been determined by the USCG to not be part of the "regular complement of a unit." The LOD is valid for a specified time.

(4) **(U)** If an applicant does not present a letter from the USCG, but you believe the applicant is joining a unit engaging in OCS activity, request an AO from L/CA.

g. **(U)** An employer or an owner/operator who wishes to employ persons other than U.S. citizens or LPRs on a unit engaging in OCS activity on the OCS must make a request, in writing, to the USCG so that a determination can be made as to the applicability of the OCSLA manning requirements to that unit, personnel, or positions on the unit. The request should be addressed to:

COMMANDANT (CG-CVC)

ATTN: Office of Commercial Vessel Compliance

U.S. COAST GUARD

2703 Martin Luther King Jr Ave SE STOP 7501

WASHINGTON DC 20593-7501.

h. **(U) Visa Validity:** If issuance of a B-1 visa is approved, the visa may be issued for full validity as provided in the reciprocity schedule. See 9 FAM 403.9-4 for general guidance on visa validity. You are not required to limit validity to an expiration date listed in a USCG letter.

i. **(U) Visa Annotation:** If issuance of a B-1 visa is approved, you should annotate the visa with "B-1 for Transit or Travel to the OCS."

j. **(U) Wind Farming and Other Activities on the OCS:** Activities occurring on the OCS that do not involve "minerals of the OCS," such as a wind farm project, are not considered to be an OCS activity by the USCG so an applicant seeking a visa to transit or travel to the OCS would not have a USCG letter to present. Applicants seeking to transit or travel to the United States to join a

vessel engaged in non-OCS activity, to include wind farm activity, are not subject to the requirements above. As the OCS is not within the "United States" for visa purposes, you may issue a B-1 visa to an applicant who is otherwise eligible for the B-1 visa and who seeks to transit or travel to the OCS for non-OCS activity. The visa may be annotated but should be distinguished from the annotation in paragraph i above. For example, the visa may be annotated as follows: "B-1 for Transit or Travel to the OCS for wind activities; not OCS activity."

9 FAM 402.2-5(C)(10) (U) Participants in International Sporting Events

(CT:VISA-2145; 04-14-2025)

(U) Referees, Judges and Technical Officials: A referee, judge, or technical official may be issued a B-1 visa if the applicant has been hired subject to a selection process to referee, judge, oversee, or officiate a sporting event with an international dimension (such as FIFA World Cup or the Olympics). Technical officials are responsible for applying the rules or regulations of individual sports to make judgments on performance, ranking, time or rule infringement, and ensure that all athletes can compete fairly (for example, timekeepers, weigh-in officials, starters, lane inspectors, and stroke and turn officials). Such aliens may not receive a salary or payment for services from a U.S. source, other than remuneration for incidental expenses.

9 FAM 402.2-5(D) (U) Personal Employees/Domestic Workers

(CT:VISA-1625; 09-08-2022)

(U) Applicants employed in a personal capacity by an individual as personal employees or domestic employees may be classified as B-1 visitors if they meet the following special circumstances.

9 FAM 402.2-5(D)(1) (U) Personal Employees/Domestic Workers of U.S. Citizens Residing Abroad

(CT:VISA-1826; 09-06-2023)

a. **(U)** Personal employees or domestic workers may accompany or follow to join a U.S. citizen employer who is traveling to the United States temporarily, if the U.S. citizen employer has a permanent home or is stationed in a foreign country, and the following requirements are met:

(1) **(U)** The employee has a residence abroad which they have no intention of abandoning;

(2) **(U)** The applicant has been employed abroad by the employer as a personal employee or domestic worker for at least six months before the date of the employer's admission to the United States; or the employer can show that while abroad the employer has regularly employed a domestic worker in the same capacity as that intended for the applicant;

(3) **(U)** The employee can demonstrate at least one year experience as a personal employee or domestic worker; and

(4) **(U)** The employee is in possession of an original contract or a copy of the contract, to be presented at the POE. The employment contract must be in a language understood by the employee and signed and dated by the employer and the employee. The employment contract must include the following provisions:

(a) **(U)** The employer will be the only provider of employment to the domestic employee;

(b) **(U)** The employer will provide the employee free room and board and a round trip airfare;

(c) **(U)** The employee will receive the greater of the minimum or prevailing wage under U.S. federal, state, or local law for an eight-hour workday;

(d) **(U)** The employer will give at least two weeks' notice of their intent to terminate the employment, and the employee need not give more than two weeks' notice of their intent to leave the employment; and

(e) **(U)** The employment contract must also reflect any other benefits normally required for U.S. domestic workers in the area of employment.

9 FAM 402.2-5(D)(2) (U) Personal Employees/Domestic Workers of U.S. Citizens on Temporary Assignment in the United States

(CT:VISA-1826; 09-06-2023)

a. **(U)** Personal employees or domestic workers may accompany or following to join a U.S. citizen employer who is traveling to the U.S. temporarily, if the U.S. citizen employer has a permanent home or is routinely stationed in a foreign country (as set out in paragraph (b) below) and the following requirements are met:

(1) **(U)** The employee has a residence abroad which they have no intention of abandoning;

(2) **(U)** The applicant has been employed abroad by the employer as a personal employee or domestic worker for at least six months before the date of the employer's admission to the United States; or the employer can show that while abroad the employer has regularly employed a domestic worker in the same capacity as that intended for the applicant;

(3) **(U)** The employee can demonstrate at least one year experience as a personal employee or domestic worker by producing statements from previous employers attesting to such experience; and

(4) **(U)** The employee is in possession of an original contract or a copy of the contract, to be presented at the POE. The employment contract must be in a language understood by the employee and signed and dated by the employer and employee and must include the following provisions:

(a) **(U)** The employer will be the only provider of employment to the domestic employee;

(b) **(U)** The employer will provide the employee free room and board and a round trip airfare;

(c) **(U)** The employee will receive the greater of the minimum or prevailing wage under U.S. federal, state, or local law for an eight-hour workday;

(d) **(U)** The employer will give at least two weeks' notice of their intent to terminate the employment, and the employee need not give more than two weeks' notice of their intent to leave the employment; and

(e) **(U)** The employment contract must also reflect any other benefits normally required for U.S. domestic workers in the area of employment.

b. **(U)** The U.S. citizen employer must be subject to frequent international transfers lasting two years or more as a condition of the job as confirmed by the employer's personnel office and is returning to the United States for a stay of no more than six years.

9 FAM 402.2-5(D)(3) (U) Personal Employees/Domestic Workers of Foreign Nationals in Nonimmigrant Status

(CT:VISA-1963; 04-01-2024)

(U) A personal employee or domestic worker who accompanies or follows to join an employer who is seeking admission into, or is already in, the United States in B, E, F, H, I, J, L, M, O, P, Q, and TN (NAFTA Professional) nonimmigrant status, must meet the following requirements:

(1) **(U)** The employee has a residence abroad which they have no intention of abandoning (notwithstanding the fact that the employer may be in a nonimmigrant status which does not require such a showing);

(2) **(U)** The employee can demonstrate at least one year's experience as a personal employee or domestic worker;

(3) **(U)** The employee has been employed abroad by the employer as a personal employee or domestic worker for at least one year before the date of the employer's admission to the United States or if the employee-employer relationship existed immediately before the time of visa application, the employer can demonstrate that they have regularly employed (either year-round or seasonally) personal employees or domestic worker's over several years preceding the domestic employee's visa application for a nonimmigrant B-1 visa;

(4) **(U)** The applicant must have an employment contract in a language understood by the employee that has been signed and dated by the employer and employee, and such contract includes the following provisions:

(a) **(U)** The employee will receive the greater of the minimum or prevailing wage under U.S. federal, state, or local law for an eight-hour workday;

(b) **(U)** The employee will receive free room and board;

(c) **(U)** The employer will be the only provider of employment to the employee; and

(d) **(U)** The employer must pay the domestic's initial travel expenses to the United States, and to the employer's onward assignment, or to the employee's country of normal residence at the termination of the assignment.

9 FAM 402.2-5(D)(4) (U) Lawful Permanent Residents (LPRs) May Not Employ Personal Employees/Domestic Workers in B-1 Status

(CT:VISA-1730; 03-10-2023)

(U) Lawful Permanent Residents (LPRs), including conditional permanent residents and LPRs who have filed Form N-470, Application to Preserve Residence for Naturalization Purposes, may not employ foreign nationals in B-1 domestic status, as the employer is permanently resident in the United States.

9 FAM 402.2-5(D)(5) (U) Source of Payment to B-1 Personal Employees/Domestic Workers

(CT:VISA-1963; 04-01-2024)

(U) The source of payment to a B-1 personal employee or domestic worker or the place where the payment is made, or the location of the bank is not relevant to the visa adjudication.

9 FAM 402.2-5(D)(6) (U) Your Responsibilities in Processing Applications Under the William Wilberforce Trafficking Victims Protection Reauthorization Act

(CT:VISA-1963; 04-01-2024)

a. **(U)** The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (WWTVPRA) requires you to ensure that an applicant applying for a B-1 NIV as a personal employee or domestic worker accompanying or following to join an employer, is made aware of their legal rights under Federal immigration, labor, and employment laws. This includes information on the illegality of slavery, peonage, trafficking in persons, sexual assault, extortion, blackmail, and worker exploitation in the United States. This information is available in the form of a physical "Know Your Rights" information pamphlet or a Quick Response (QR) code, which permits applicants to access an online version of the information pamphlet by scanning the code with their smartphone camera. During the NIV interview, you must ask applicants if they prefer the QR code, the physical pamphlet, or both and confirm that the information prepared by the Department has been received, read, and understood by the applicant. See 9 FAM 402.3-9(C) for information about WWTVPRA enforcement and your responsibilities. You must add a case note in the NIV system stating the QR code and/or the pamphlet was provided, and the applicant indicated they understood its contents.

b. **(U)** If a B-1 personal employee/domestic worker is eligible for an in-person interview waiver (see 9 FAM 403.5-4(A)) and the applicant's previous visa was issued when the visa section was adhering to the WWTVPRA requirements, you may apply the fingerprint reuse/interview waiver policies and ensure a copy of the information via the QR code is returned to every issued applicant along with their visa.

9 FAM 402.2-5(E) (U) Certain Other Business Activities Classifiable B-1

(CT:VISA-1288; 05-21-2021)

(U) While the categories listed below generally may be classified under the proper applicable nonimmigrant class, i.e., A, E, H, F, L, or M visas, you may issue B-1 visas to otherwise eligible applicants under the criteria provided below.

9 FAM 402.2-5(E)(1) (U) Commercial or Industrial Workers

(CT:VISA-1288; 05-21-2021)

a. **(U)** An applicant coming to the United States to install, service, or repair commercial or industrial equipment or machinery purchased from a company outside the United States or to train U.S. workers to perform such services. **However, in such cases, the contract of sale must specifically require the seller to provide such services or training and the visa applicant must possess unique knowledge that is essential to the seller's contractual obligation to perform the services or training and must receive no remuneration from a U.S. source.**

b. **(U)** These provisions do not apply to an applicant seeking to perform building or construction work, whether on-site or in-plant. The exception is for an applicant who is applying for a B-1 visa for supervising or training other workers engaged in building or construction work, but not actually performing any such building or construction work.

9 FAM 402.2-5(E)(2) (U) Foreign Airline Employees

(CT:VISA-1963; 04-01-2024)

a. **(U)** Foreign airline employee applicants who:

(1) **(U)** Seek to enter the United States for employment with a foreign airline that is engaged in international transportation of passengers and freight;

(2) **(U)** Are working in an executive, supervisory, or highly technical capacity; and

(3) **(U)** Otherwise meet the requirements for E visa classification but are precluded from entitlement to treaty trader E-1 classification solely because there is no treaty of friendship, commerce, and navigation in effect between the United States and the country of the applicants' nationality, or because they are not nationals of the airline's country of nationality.

b. **(U)** Employees of foreign airlines coming to the United States to join an aircraft for an onward international flight may also be documented as B-1 visitors in that they are not transiting the United States and are not admissible as crewmembers. Work on solely domestic flights within the United States is not permissible in B-1 status.

9 FAM 402.2-5(E)(3) (U) Clerkship

(CT:VISA-1826; 09-06-2023)

a. **(U)** Except as in the cases described below, applicants who wish to obtain hands-on clerkship experience are not deemed to fall within B-1 visa classification.

b. **(U) Medical Clerkship:** An applicant who is studying at a foreign medical school and seeks to enter the United States temporarily to take an "elective clerkship" at a U.S. medical school's hospital without remuneration from the hospital. The medical clerkship is only for medical students pursuing their normal third- or fourth-year internship in a U.S. medical school as part of a foreign medical school degree. An "elective clerkship" affords practical experience and instructions in the various disciplines of medicine under the supervision and direction of faculty physicians at a U.S. medical school's hospital as an approved part of the applicant's foreign medical school education. It does not apply to graduate medical training, which is restricted by INA 212(e) and normally requires a J-visa.

c. **(U) Business or other Professional or Vocational Activities:** An applicant who is coming to the United States merely and exclusively to observe the conduct of business or other professional or vocational activity may be classified B-1, if the applicant pays for their own expenses. However,

applicants, often students, who seek to gain practical experience through on-the-job training or clerkships must qualify under INA 101(a)(15)(H) or INA 101(a)(15)(L), or when an appropriate exchange visitors program exists INA 101(a)(15)(J). If certain requirements are met, interns at embassies, consulates, miscellaneous foreign government offices (MFGOs), missions to international organizations, or international organizations may qualify for A-2, G-1, G-2, G-3, or G-4 visas. See 9 FAM 402.3-5(D)(1) and 9 FAM 402.3-7(B).

9 FAM 402.2-5(E)(4) (U) Participants in Foreign Assistance Act Program

(CT:VISA-1288; 05-21-2021)

(U) An applicant invited to participate in any program furnishing technical information and assistance under section 635(f) of the Foreign Assistance Act of 1961, 75 Statute 424.

9 FAM 402.2-5(E)(5) (U) Peace Corps Volunteer Trainers

(CT:VISA-1963; 04-01-2024)

(U) An applicant invited to participate in the training of Peace Corps volunteers or coming to the United States under contract pursuant to sections 9 and 10(a)(4) of the Peace Corps Act (75 Statute 612) unless the applicant qualifies for A classification. See 9 FAM 403.9-5(B) for the required annotation on any visa issued under this legislation.

9 FAM 402.2-5(E)(6) (U) Applicants Involved in International Fairs or Expositions

(CT:VISA-1288; 05-21-2021)

(U) Applicants who are coming to the United States to plan, assemble, dismantle, maintain, or be employed in connection with exhibits at international fairs or expositions may, depending upon the circumstances in each case, qualify for one of the following classifications.

(1) **(U)** Applicants representing a foreign government in a planning or supervisory capacity and/or their immediate staffs are entitled to "A" classification if an appropriate note is received from their government, and if they are otherwise properly documented.

(2) **(U)** Employees of foreign exhibitors at international fairs or expositions who are not foreign government representatives and do not qualify for "A" classification ordinarily are classified B-1.

(3) **(U)** While applicant employees of U.S. exhibitors or employers are not eligible for B-1 visas they may be classifiable as H-1 or H-2 temporary workers.

9 FAM 402.2-5(F) (U) Applicants Normally Classifiable H-1 or H-3 (B in Lieu of H)

(CT:VISA-1963; 04-01-2024)

a. **(U)** There are cases in which applicants who qualify for H-1 or H-3 visas may more appropriately be classified as B-1 visa applicants in certain circumstances, e.g., a qualified H-1 or H-3 visa applicant coming to the United States to perform H-1 services or to participate in a training program. In such a case, the applicant must not receive any salary or other remuneration from a U.S. source other than an expense allowance or other reimbursement for expenses incidental to the applicant's temporary stay. For purposes of this section, it is essential that the remuneration or source of income for services performed in the United States continue to be provided by the business entity located abroad, and that the applicant meets the following criteria:

(1) **(U)** Regarding foreign-sourced remuneration for services performed by applicants admitted under the provisions of INA 101(a)(15)(B), the Department has maintained that where a U.S. business enterprise or entity has a separate business enterprise abroad, the salary paid by such foreign entity should not be considered as coming from a "U.S. source;"

(2) **(U)** For an employer to be considered a "foreign firm" the entity must have an office abroad and its payroll must be disbursed abroad. To qualify for a B-1 visa, the employee must

customarily be employed by the foreign firm, the employing entity must pay the employee's salary, and the source of the employee's salary must be abroad; and

(3) **(U)** An applicant classifiable as H-2 must be classified as such notwithstanding the fact that the salary or other remuneration is being paid by a source outside the United States, or the fact that the applicant is working without compensation (other than a voluntary service worker classifiable B-1 in accordance with 9 FAM 402.2-5(C) above). An NIV petition accompanied by an approved labor certification must be filed on behalf of the applicant.

b. **(U)** B-1 visas issued in accordance with the guidance in this section must be annotated as such. The annotation should read:

"B-1 IN LIEU OF H, PER 9 FAM 402.2-5(F)"

9 FAM 402.2-5(F)(1) (U) Incidental Expenses or Remuneration

(CT:VISA-1625; 09-08-2022)

(U) A nonimmigrant in B-1 status may not receive a salary from a U.S. source for services rendered in connection with their activities in the United States. A U.S. source, however, may provide the applicant with an expense allowance or reimbursement for expenses incidental to the temporary stay. Incidental expenses may not exceed the actual reasonable expenses the applicant will incur in traveling to and from the event, together with living expenses the applicant reasonably can be expected to incur for meals, lodging, laundry, and other basic services.

9 FAM 402.2-5(F)(2) (U) Honorarium Payment

(CT:VISA-1288; 05-21-2021)

(U) INA 212(q) provides that a B-1 nonimmigrant may accept an honorarium payment and associated incidental expenses for usual academic activities (which can include lecturing, guest teaching, or performing in an academic sponsored festival) if:

(1) **(U)** The activities last no longer than nine days at any single institution or organization;

(2) **(U)** Payment is offered by an institution or organization described in INA 212(p)(1);

(3) **(U)** The honorarium is for services conducted for the benefit of the institution or entity; and

(4) **(U)** The applicant has not accepted such payment or expenses from more than five institutions or organizations over the last six months.

9 FAM 402.2-5(F)(3) (U) Medical Doctor

(CT:VISA-1826; 09-06-2023)

(U) A medical doctor whose purpose for coming to the United States is to observe U.S. medical practices and consult with colleagues on latest techniques, if no remuneration is received from a U.S. source and no patient care is involved. Failure to pass the Foreign Medical Graduate Examination (FMGE) is irrelevant in such a case.

9 FAM 402.2-5(F)(4) (U) H-3 Trainees

(CT:VISA-1826; 09-06-2023)

a. **(U)** Applicants already employed abroad, who are coming to undertake training and who are classifiable as H-3 trainees. Department of Homeland Security (DHS) regulations state that for an applicant to be classifiable as H-3, the petitioner must demonstrate that:

(1) **(U)** The proposed training is not available in the applicant's own country;

(2) **(U)** The beneficiary will not be placed in a position which is in the normal operation of the business and in which citizens and resident workers are regularly employed;

(3) **(U)** The beneficiary will not engage in productive employment unless such employment is incidental and necessary to the training; and

(4) **(U)** The training will benefit the beneficiary in pursuing a career outside the United States.

b. **(U)** They will continue to receive a salary from the foreign employer and will receive no salary or other remuneration from a U.S. source other than an expense allowance or other reimbursement for expenses (including room and board) incidental to the temporary stay. In addition, the fact that the training may last one year, or more is not in itself controlling and it should not result in denial of a visa if you are satisfied that the intended stay in the United States is temporary, and that, in fact, there is a definite time limitation to such training.

9 FAM 402.2-5(G) (U) Entertainers and Artists

(CT:VISA-1730; 03-10-2023)

a. **(U)** Except for the following cases, B visa status is not appropriate for a member of the entertainment profession (professional entertainer) who seeks to enter the United States temporarily to perform services. Instead, performers should be accorded another appropriate visa classification, which in most cases will be P, regardless of the amount or source of compensation, whether the services will involve public appearance(s), or whether the performance is for charity or a U.S. based ethnic society. See 9 FAM 402.2-4(A) above on B-2 visas for amateur performances.

b. **(U)** The term "member of the entertainment profession" includes not only performing artists such as stage and movie actors, musicians, singers, and dancers, but also other personnel such as technicians, electricians, make-up specialists, film crew members coming to the United States to produce films, etc.

c. **UNAVAILABLE.**

9 FAM 402.2-5(G)(1) (U) Participants in Cultural Programs

(CT:VISA-288; 02-22-2017)

(U) A professional entertainer may be classified B-1 if the entertainer:

(1) **(U)** Is coming to the United States to participate only in a cultural program sponsored by the sending country;

(2) **(U)** Will be performing before a nonpaying audience; and

(3) **(U)** All expenses, including per diem, will be paid by the member's government.

9 FAM 402.2-5(G)(2) (U) Participants in International Competitions

(CT:VISA-288; 02-22-2017)

(U) A professional entertainer may be classified B-1 if the entertainer is coming to the United States to participate in a competition for which there is no remuneration other than a prize (monetary or otherwise) and expenses.

9 FAM 402.2-5(G)(3) (U) Still Photographers

(CT:VISA-1963; 04-01-2024)

(U) DHS permits still photographers to enter the United States with B-1 visas to take photographs if they receive no income from a U.S. source.

9 FAM 402.2-5(G)(4) (U) Musicians

(CT:VISA-1826; 09-06-2023)

(U) An applicant musician may be issued a B-1 visa, if:

(1) **(U)** The musician is coming to the United States to utilize recording facilities for recording purposes only;

(2) **(U)** The recording will be distributed and sold only outside the United States; and

(3) **(U)** No public performances will be given.

9 FAM 402.2-5(G)(5) (U) Artists

(CT:VISA-288; 02-22-2017)

(U) An artist coming to the United States to paint, sculpt, etc. who is not under contract with a U.S. employer and who does not intend to regularly sell such artwork in the United States.

9 FAM 402.2-5(H) (U) Advisory Opinion Required if Applicant not Clearly Identifiable B-1

(CT:VISA-1826; 09-06-2023)

a. **(U) In General**: An AO must be requested before the issuance of a B-1 visa in any case involving temporary employment in the United States, other than as clearly set forth in 9 FAM 402.2-5(C), (D), (E), and (F) above. The Department recognizes that there are cases which might possibly be classifiable B-1, but which do not fit precisely within one of the classes described above. An AO is required in these cases to ensure uniformity and to avoid the issuance of a B-1 to an applicant classifiable H-2 or other petition-based temporary worker classification and thus subject to the safeguards of the petition and labor certification requirements.

b. **(U) Procedures:** The AO request may be sent through the AO feature in the NIV system or by email to L/CA. The request must provide full details as to:

(1) **(U)** Occupation of the applicant;

(2) **(U)** Type of work to be performed;

(3) **(U)** Place and duration of the contemplated employment;

(4) **(U)** Source and amount of salary to be paid;

(5) **(U)** Identity of United States and/or foreign employer;

(6) **(U)** Your reasons for believing B-1 classification appropriate; and

(7) **(U)** Any other relevant information.

9 FAM 402.2-5(I) (U) Nonimmigrants Obtaining Social Security Cards

(CT:VISA-1826; 09-06-2023)

a. **(U)** The Department, DHS, and the Social Security Administration (SSA) have agreed that certain nonimmigrant applicants who are coming to the United States to pursue certain employment activities incidental to the applicants' professional business commitments, and who will receive remuneration or salary from sources in the United States, may apply for a social security card. Although for immigration purposes these activities might not constitute "employment in the United States," even with a U.S. source of income, the activities might be considered "employment" for other purposes or by other agencies, such as the Internal Revenue Service (IRS). To qualify for a social security card, the employee must have the B-1 visa annotated to identify the employer for whom the employee will be working in the United States and the applicable 9 FAM reference. This annotation will enable the social security officer to quickly identify these applicants as being eligible for issuance of a working social security card which in turn will enable the employer and employee to comply with legal requirements such as participation in the social security fund, IRS tax payments, workmen compensation and any other work-related requirements.

b. **(U)** Personal or domestic employees of U.S citizen employers or nonimmigrant employers who are classifiable B-1, E, F, H, I, J, L, M, O, P, or Q if they meet the criteria under 9 FAM 402.2-5(D) above.

c. **(U)** Airline employees who, because of their visa classification and the nature of their work, are authorized to be employed and receive compensation in the United States. See 9 FAM 402.2-5(E)(2) above.

d. **(U)** Visiting religious leaders in B-1 visa category who are engaged in a religious tour and are supported by offerings contributed at each religious meeting. See 9 FAM 402.2-5(C)(1) above.

9 FAM 402.2-6 (U) PROCEDURES RELATED TO B VISAS

9 FAM 402.2-6(A) (U) Authority to Classify Certain Visas "B-1/B-2" and Amount of Fees to Be Collected

(CT:VISA-1; 11-18-2015)

a. **(U)** You may issue combined B-1/B-2 visas to qualified applicants whose principal purpose for visiting the United States at various times falls within the B-1 or B-2 category.

b. **(U)** When the fee prescribed in the appropriate reciprocity schedule is not the same for each classification, the higher of the two fees must be collected.

9 FAM 402.2-6(B) (U) Annotations on Nonimmigrant Visas

(CT:VISA-1826; 09-06-2023)

(U) Annotations on NIVs regarding the purpose and duration of stay are encouraged when the visas are limited and when the use of such notations would be helpful to the Department of Homeland Security (DHS) inspectors or other consular officers when processing future visa applications. Positive notations such as "VISIT UNCLE SAN FRANCISCO, THREE WEEKS" are helpful and are authorized. However, endorsements of a negative type such as "NO ADJUSTMENT OF STATUS OR EXTENSION OF STAY RECOMMENDED" or any other notation which tends to tell DHS what to do or which questions the applicant's veracity are not allowed.

9 FAM 402.2-7 (U) NONRESIDENT MEXICAN BORDER CROSSING CARDS (BCC); COMBINED BORDER CROSSING IDENTIFICATION CARDS AND B-1/B-2 VISAS (B-1/B-2-BCC)

9 FAM 402.2-7(A) (U) Authorization for Issuance

(CT:VISA-1963; 04-01-2024)

a. **(U)** The B-1/B-2 BCC may be in the form of a card (BBBCC) or a visa foil (BBBCV). The BBBCC is issued as the default B-1/B-2 visa at all consular sections in Mexico. A valid Mexican passport is required at the time of application. With a valid passport, the BBBCV or BBBCC is valid for entry regardless of the point of origin of travel. The BCC aspect of a BBBCC or BBBCV can still be used for land border entry without a passport within the border zone (25 miles in TX and CA; 55 miles in NM; and 75 miles in AZ) for up to 30 days. You may issue a BBBCC or BBBCV to a nonimmigrant applicant who:

   (1) **(U)** Is a citizen and resident of Mexico;

   (2) **(U)** Is physically present at a U.S. consular office in Mexico designated by the Deputy Assistant Secretary of State for Visa Services to accept such applications;

   (3) **(U)** Seeks to enter the United States as a temporary visitor for business or pleasure as defined in INA 101(a)(15)(B) for periods of stay not exceeding six months; and

   (4) **(U)** Is otherwise eligible for a B-1 or a B-2 temporary visitor visa.

b. **(U)** The Mexico residency requirement does not prohibit BCC holders from retaining the card and using it to travel to the United States after taking up residence in another country after receiving the BCC, although DHS or a consular officer are authorized to revoke the card due to abandonment of Mexican residency.

9 FAM 402.2-7(B) (U) Application Procedure

(CT:VISA-1730; 03-10-2023)

a. **(U)** Mexican applicants must apply for a B-1/B-2 Visa/BCC at any U.S. consular office in Mexico designated by the Deputy Assistant Secretary of State for Visa Services to accept such

applications. **Under 22 CFR 41.32(a)(1), consular sections outside of Mexico are not authorized to issue a B-1/B-2 Visa/BCC in any form, neither as a card (BBBCC) nor on a visa foil (BBBCV).**

b. **(U)** The application must be submitted electronically on Form DS-160, Electronic Nonimmigrant Visa Application. It must be signed electronically by clicking the box designated "Sign Application" in the certification section of the application.

9 FAM 402.2-7(C) (U) Personal Appearance

(CT:VISA-1288; 05-21-2021)

(U) Each applicant must appear in person before a consular officer to be interviewed regarding eligibility for a visitor visa unless the personal appearance is waived. See 9 FAM 403.5-4(A).

9 FAM 402.2-7(D) (U) Reviewing Applications for Mexican Border Crossing Cards (BCC) and B-1/B-2 BCC

(CT:VISA-1; 11-18-2015)

(U) In reviewing an application for a combined Border Crossing Identification Card and B-1/B-2 visa (B-1/B-2 BCC) card (BBBCC) or foil (BBBCV), you must determine the applicant's eligibility for a visitor visa for business or pleasure.

9 FAM 402.2-7(E) (U) Refusing Mexican Border Crossing Cards (BCC) and B-1/B-2 BCC

(CT:VISA-1625; 09-08-2022)

(U) If you find an applicant ineligible for a visitor visa, you may not issue a B-1/B-2 BCC. You must proceed in the same manner as an NIV case, refusing under the pertinent paragraph of INA 212(a), 221(g), or 214(b). You should also consider whether waiver action would be appropriate.

9 FAM 402.2-7(F) (U) Validity

(CT:VISA-1826; 09-06-2023)

a. **(U)** The Department intends that the Mexican B-1/B-2 BCC card or foil be used in place of the B-1/B-2 visa and that full validity be given in all cases where applicants are qualified to receive B-1/B-2 visas. If an applicant under age 15 pays the reduced fee for a BCC or BBBCV, it must be valid until the day before the applicant's fifteenth birthday. No annotations other than "DSP-150 US B-1/B-2 Visa/BCC" are permitted on a B-1/B-2 BCC foil. If additional annotations are required, or validity must be limited due to a waiver approval, a B-1/B-2 visa must be issued instead of a B-1/B-2 BCC foil.

b. **UNAVAILABLE**.

c. **(U)** Applicants may not be issued concurrently valid B-1/B-2 foils and B-1/B-2 BCC cards or foils.

9 FAM 402.2-7(G) (U) Replacement

(CT:VISA-1826; 09-06-2023)

(U) When a B-1/B-2 Visa/BCC card or foil has been lost, mutilated, destroyed, or expired, the person to whom such card or foil was issued may apply for a new B-1/B-2 Visa/BCC card or foil as provided in this section. BCC cards recovered by a consular section or submitted by an applicant applying for a replacement card or B-1/B-2 visa should be handled following the procedures outlined in 9 FAM 402.2-7(H)(2) below.

9 FAM 402.2-7(H) (U) Procedures Relating to Border Crossing Cards

9 FAM 402.2-7(H)(1) (U) Issuance and Format

(CT:VISA-1826; 09-06-2023)

a. **(U)** A B-1/B-2 Visa/BCC issued on or after April 1, 1998, consists of a card or a foil, DSP-150, B-1/B-2 Visa and Border Crossing Card, containing a machine-readable biometric identifier. It must contain the following data:

(1) **(U)** Number of the card or foil;

(2) **(U)** Date of issuance;

(3) **(U)** Indicia "B–1/B–2 Visa and Border Crossing Card";

(4) **(U)** Name, date of birth, and sex of the person to whom issued; and

(5) **(U)** Date of expiration.

b. **(U)** If the applicant is approved for the B-1/B-2 BCC card but has an urgent need to travel before delivery of the card can be reasonably expected, the applicant shall be issued a B-1/B-2 BCC foil. The applicant shall not be issued a limited validity B-1/B-2 visa foil for immediate use in addition to the B-1/B-2 BCC card.

9 FAM 402.2-7(H)(2) (U) Proper Handling of Defective, Spoiled, and Found Border Crossing Cards

(CT:VISA-1826; 09-06-2023)

a. **(U)** All overseas consular sections, except for Mission Mexico, should send defective/spoiled/found new-style (issued on or after October 1, 2008) Border Crossing Cards (BCCs) to the Department via unclassified pouch using the following address:

U.S. Department of State

Arkansas Passport Center (CA/PPT/APC)

191 Office Park Drive

Hot Springs, AR 71913

b. **(U)** Consular sections in Mission Mexico, however, may return expired BCCs submitted in connection with a new visa application if there are no fraud concerns (see paragraph d below). Staff must clip the bottom right corner of a BCC to render it cancelled and may return the clipped BCC to the applicant. If not returned to the applicant, expired BCCs should be shredded at post.

c. **(U)** Because BCCs are accountable items, any currently valid defective/spoiled/found BCCs must be destroyed and documented by the ACO in the presence of a cleared American witness. Currently, BCCs only appear in the AI module of the Arkansas Passport Center (APC), the facility that produces them. To meet accountability requirements, consular sections destroying BCCs locally must create a destruction log that includes the total number of items destroyed and their individual serial numbers (this number begins with a "V" and is listed in the CS2 report under the heading "Barcode") or inclusive range of serial numbers. Both the ACO and the witness must attest to the destruction by signing the log. Consular staff then must scan and send the log in both Adobe and Excel XLS format to APC by email (APCCST@state.gov) so APC can record the destruction in AI. At such time in the future as AI is modified to enable receiving consular sections to electronically record BCC destruction locally, they should do so rather than creating and sending destruction logs to APC.

d. **(U)** BCCs that may have been tampered with or altered, regardless of issuance date, must be sent to Consular Affairs' Office of Fraud Prevention Programs via unclassified pouch using the following address:

U.S. Department of State

Office of Fraud Prevention Programs (CA/FPP)

600 19th Street, N.W., Suite 8.200

Washington, D.C. 20522-1708

e. **(U)** Unless they are being destroyed at post in accordance with paragraph b above, defective/spoiled/replaced/found BCCs should be sent back to the Department at least monthly for destruction, and may be sent more frequently, if necessary, depending on the quantity at post. They must be bundled according to the reason they are being returned. The categories are as follows:

(1) **(U)** "Data Entry or Operator Errors" include name misspellings, incorrect date of birth date, incorrect place of birth, poor photo quality, or poor laminate quality. These errors usually originate at post or at the domestic passport partner center. The Data Entry or Operator Errors category also includes BCCs damaged in transit, such as if the delivery truck catches fire in an accident and the BCC is singed.

(2) **(U)** "All Other Errors" (manufacturing errors) include misaligned printing, and problems with reading the electronic chip, which may not be discovered until the bearer attempts to use the BCC.

(3) **(U)** "Found" includes all lost or stolen BCCs presented to consular sections with no apparent error or defect.