

COUNCIL *on* FOREIGN RELATIONS



POLICY INNOVATION MEMORANDUM NO. 12

Date: January 26, 2012
From: Edward Alden, Liam Schwartz
Re: Faster, Safer, and Smarter: A Modern Visa System for the United States

The U.S. visa system is still not effectively focusing resources on those who pose a threat to our country. More than a decade after 9/11, foreign tourists, business travelers, students, and temporary workers presenting low security risks face the same cumbersome and unpredictable procedural hurdles as high-risk applicants. Despite commendable efforts by the State Department to speed up visa issuance, only modest progress has been made in translating the tremendous technological advances in homeland security to the visa system to ensure that accurate determinations are made in a timely manner.

Poorly designed visa security procedures coupled with a record high volume of visa applicants have resulted in chronic procedural delays in the largest sending countries, including China, India, and Brazil, though increased staffing and other initiatives have helped reduce interview wait times in recent months. These delays cost the United States tens of billions of dollars annually in lost tourism and foreign investment, and hurt U.S. diplomacy by discouraging people from seeing U.S. society and culture firsthand. The United States is competing with other countries for these same visitors, and the price of an inefficient U.S. visa system is high.

The State Department and the Department of Homeland Security should utilize existing technologies to implement better visa procedures at lower cost. Computerized screening has been developed for identifying potentially risky goods imported into the United States; the same capabilities can be used for sorting people wishing to travel here. These technologies will decrease the government's dependence on human vetting of visa applicants through face-to-face interviews and manual background checks. Low-risk travelers—the vast majority of visa applicants—would be processed quickly, freeing up consular officers for vetting higher-risk travelers. The result would be a system that better protects security while welcoming millions of people.

THE ISSUE

Visa delays result primarily from a system that depends on consular officers vetting visa applicants through face-to-face interviews and manual background checks. These officers must act as human lie detectors—leafing through documents and asking probing questions with the goal of uncovering mendacity. Since 9/11, the United States has layered additional consular-related security measures on top of the traditional interview screening. These measures include biometrics, expanded checks against terrorist watch lists, enhanced screening for prior immigration violations, and more background investigations under the Security Advisory Opinion (SAO) process. For visa applicants, the result is a process that is unpredictable, nontransparent, and occasionally capricious.

AN IMPROVED VISA SCREENING SYSTEM

The visa challenge is identical to that of any screening system—to separate high risks from low risks. Such separation improves both security and efficiency, because scarce resources can be dedicated to scrutinizing higher-risk goods or people, while allowing rapid passage for lower-risk goods and people. Some U.S. agencies have made significant advances in screening. The Department of Homeland Security (DHS) Automated Targeting System identifies high-risk cargo shipments and passengers on overseas incoming flights. Using data on shippers, goods, and individual passengers, as well as intelligence assessments of changing threats, DHS generates a risk score for inbound traffic as a tool for targeting its inspection capabilities. The Food and Drug Administration (FDA) has a similar system, known as PREDICT, which ranks imported shipments of food and drugs according to public health risk.

Risk targeting in the visa process is unsophisticated in comparison. Applicants are checked against a consular lookout database that is name-based and subject to a high degree of false positives. Those who “hit” against this system, or are identified based on crude profiles (nationality, technical expertise, or other characteristics), then have their applications reviewed through the SAO process. Many applicants—about three hundred thousand of the roughly eight million who apply for a U.S. visa each year—face time-consuming manual background checks. Only a small fraction is denied visas, but many face delays of months or even years.

Computerized systems could do the initial screening for all visa applicants far more efficiently. U.S. government pilot projects of new screening systems have resulted in fewer false positives, while still identifying all the threats captured under the existing procedures, along with some that were missed. The systems can be constantly updated with the latest threat information. The small number of genuine potential threats can either be denied immediately or referred for the in-depth SAO review procedure; consular officials would retain discretion to require more detailed checks for any applicant. Random checks could be used to check on the integrity of automated screening.

Yet the Obama administration has not fully implemented the new system, perhaps because of concerns over congressional reaction. The key committees in Congress have pressed for more DHS personnel at overseas consulates to increase human vetting rather than encouraged the use of technology to streamline the system. Such redundancy made sense a decade ago, but has been made unnecessary by improvements in technology. Both the administration and Congress need to recognize that, with current capabilities, visa delays now produce significant economic costs for no security benefits.

NEW OVERSTAY TRACKING CAPABILITIES

A new security screening system would not, however, address the immigration-related issue of visa overstays. A primary function of the consular interview is to assess the likelihood that the applicant will violate the terms of his or her visa. A new automated capability developed by the government to identify overstays could reduce the current dependence on consular interviews for performance of this function, and ensure that qualified travelers receive their visas more expeditiously.

In 2011, the Obama administration used this new automated process, based on airline passenger arrival and departure records, to run a computerized search on what it thought could be as many as 1.6 million overstays who had arrived since 2004. In fact, half of those had already left the country; of the remainder, only a small number (about three dozen) were deemed to represent security threats that justified further investigation. Soon the government will have the capacity to identify most overstays as soon as they occur, and to calculate overstay rates on a country-by-country basis.

This will be a powerful tool. Individuals who overstay will be identified, may be tracked down and deported, and would likely be denied visas if they attempted to return to the United States in the future. It will also be possible to create identifiable patterns among overstays, and to develop risk scores for overstaying, much as can be done for security. Instead of relying purely on the intuition of consular officers, there will be real data available to assess the likelihood that a visa applicant will overstay.

The Obama administration should supplement these new overstay tracking capabilities with a simple notification procedure. All visa holders should be required to maintain a working email address, and would receive notification of a pending visa expiration that warns of the serious consequences of overstaying. Such proactive contact with visa holders would further reduce violations.

Once automated security screening and an effective system for tracking overstays are in place, Congress should lift the current mandatory interview requirement. Consular interviews should be reserved for those who fit known patterns for overstaying or raise security concerns.

EXPANDING THE VISA WAIVER PROGRAM

As patterns of security and immigration risk are better identified, the Obama administration should expand the Visa Waiver Program (VWP), which permits visa-free travel to the United States. The government has already created a screening system—known as the Electronic System of Travel Authorization (ESTA)—to vet travelers from VWP countries, mostly in Europe. While the visa requirement is helpful in countries where visa travelers are more likely to overstay, for security screening the visa system offers no advantages over the much faster ESTA. Individuals are checked against the same intelligence information, and potential threats are similarly identified. Indeed, when new countries are added to the VWP, security is enhanced because these governments must then share security and criminal intelligence information with the United States. And the U.S. government retains absolute discretion to deny ESTA permission to any traveler and require a visa instead. Expanding visa-free travel to countries where the risks of visa overstays are low would further reduce the load on the overburdened visa system, improving both security and efficiency.

The major hold-up on VWP expansion has been legislation requiring the government to first implement a biometric exit system, analogous to the U.S. Visitor and Immigrant Status Indicator Technology (US-VISIT) entry system. While the new biographic exit capability developed by the Obama administration does not fully meet the biometric standard, it does provide accurate information on the vast majority of overstays, and it should be accepted by Congress as adequate to resume expansion of the VWP.

CONCLUSION

These three elements—a fully automated security screening system, accurate tracking of overstays, and expansion of the VWP—would largely solve the visa delay problems that have been so costly for the United States over the past decade, and would do so in a way that enhances security. The Obama administration and Congress should move quickly to implement a system that responds to the genuine economic and security challenges of twenty-first-century travel.

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