

## Immigration Guidance for Business Travellers Entering the U.S.



# Immigration Blog

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Business visitor status allows foreign nationals to enter the United States for specific business-related activities temporarily. These activities may include consulting with business associates; attending scientific, educational, professional, or business conventions or conferences; settling an estate; negotiating contracts; or participating in short-term training, among other activities. It is important to understand that business visitor status is not intended for employment or permanent residence in the United States.

### **Understanding and communicating the purpose of your entry**

To qualify for business visitor status, travellers must demonstrate that the purpose of their trip is legitimate and business-related — but that it does not cross the line into activities that would require work authorization. The intended stay must be for a limited and specific “visitor-eligible” duration. The first best practice for a business traveller, therefore, is to ensure that you are clear to the admitting Customs and Border Protection (CBP) and/or visa officer about the purpose of your travel, and that you understand the limitations of business visitor status.

Business travellers are not authorized to work or receive payment from a U.S. source or manage people at a U.S. business while in the U.S. In some cases, where it is unclear whether business activities while in the U.S. might require work authorization, it could be better to obtain work authorization proactively, rather than wait until an officer tells you that you need it (and denies your entry on an important business trip).

## **Showing strong ties abroad**

Business travellers should be prepared to show strong ties to a country and residence outside the U.S. in case they are asked when requesting admission. Applicants are required to maintain a permanent residence outside the United States. Evidence of strong ties abroad might include permanent employment, family, property ownership or a lease, etc. These factors help to demonstrate that the applicant does not intend to overstay or immigrate permanently — a very hot topic for admitting CBP officers, as the Department of Homeland Security is focused on removing current visa overstays, and preventing additional overstays from happening in the future.

The traveller may also have to show that they have sufficient financial resources to cover all expenses during their time in the United States (including travel, lodging and daily costs), and that they have significant ties to a residence and life outside the U.S. to merit belief that their admission will be only temporary.

## **Warning signs: What might make an admitting officer concerned?**

Several actions and activities might trigger concern by a CBP officer or visa officer that requiring the traveller to obtain work authorization, rather than business visitor status, is the appropriate route.

Repeated or extended visits may raise concerns that the traveller is attempting to live in the U.S. without proper authorization. If CBP officers suspect misuse of a business visitor visa or status, they may deny entry or refer the case for further review, which could jeopardize future visa applications.

In extreme cases, where a business visitor visa has been utilized improperly and officers feel that misrepresentation has occurred, CBP or the U.S. Department of State could cancel a B-1 visa, making it difficult, if not impossible, to obtain a new visa in the future. It is important to understand that there is no level of “safe” misrepresentation when requesting admission to the U.S. or any other country. Any misrepresentation — even “small” or seemingly inconsequential to the visitor — may seem “material” to a CBP officer, meaning something that is significant enough that if they had known, they would not have admitted that traveller.

What you bring with you to the border might also raise concerns about your eligibility for business visitor status. For example, if an engineer enters the U.S. for a business meeting while carrying tools or equipment commonly used for labour, CBP officers might interpret this as an intent to work, which could lead to denial of entry. A digital presence can be another red flag. For example, if you have a managerial title and are showing up on a U.S. company’s website or representing yourself on LinkedIn as working for a U.S. business or at a U.S. location, you may be questioned about whether you are actually working for that company in the U.S. and/or managing employees of the business.

## **Searches of electronic devices at the border**

CBP officers have the authority to search travellers' electronic devices at the border, including phones, laptops, tablets and other digital media. These searches fall into two categories: basic and advanced. A basic search involves the manual inspection of the device without connecting it to any external equipment. This type of search does not require any suspicion and is performed on the spot. An advanced search, on the other hand, involves the use of external tools to review, copy or analyze the contents of the device.

Travellers should always put their devices into airplane mode, disabling access to data stored remotely. Only information stored directly on the device at the time of the inspection may be accessed. If travellers refuse to unlock or provide access to their devices, the devices may be detained temporarily to complete the inspection or sent off-site for detailed review.

Although between 40,000 and 50,000 electronic devices have been searched at ports of entry to the U.S. over the last several years, the percentage of devices searched remains extremely low (less than 0.01 per cent). There has been no meaningful increase in the number of searches of electronic devices since President Trump took office, with Q1 and Q2 searches roughly on par with the prior year.

### **General tips: Mind your manners, be honest and listen to questions**

Travellers should always be courteous and cooperative with CBP officers. Admission into the country is never guaranteed and is left to the discretion of the inspecting officer. If a traveller is denied entry at one inspection point, they should not attempt to enter through another port or misrepresent their travel purpose, as doing so may be considered a type of fraud. Material misrepresentation or fraud can lead to severe consequences, including immediate denial of entry, future inadmissibility or revocation of an existing visa.

That said, all travellers should respond to the question(s) asked. Nerves can make people over-disclose details of their trip, rather than honestly provide the specific information requested, and can raise concern where there should be none. If an officer wants more information than you provide them, they can and will ask for it — so keep answers straightforward and simple.

Once you are admitted, you should also ALWAYS check your I-94 Arrival/Departure record online. The most important information in this is (1) the type of status you have been admitted in, and (2) your "Admit Until" date. Never presume that you are given the full time for which you expect to be admitted. If an officer feels that less time is warranted — such as if they are concerned about the total amount of time you have been spending in the U.S. — they may give you a shorter amount of allotted time. If you assume your admitted time rather than checking it on the I-94, you may unintentionally overstay and accrue unlawful presence, leading to possible inadmissibility.

By following best practices and seeking professional guidance, when necessary, business travellers can minimize complications and ensure a smooth entry into the United States. For more information about this topic or related matters, our Immigration Team at Lippes Mathias LLP is here to assist. Please contact Elizabeth M. Klarin ([eklarin@lippes.com](mailto:eklarin@lippes.com)) or Eileen M. Martin ([emartin@lippes.com](mailto:emartin@lippes.com)) with any questions.

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