

## B-2 VISITOR VISA APPLICATION PROCEDURES FOR DOMESTIC PARTNERS

The following guidelines provide general information on the process of applying as a “domestic partner” in B-2 visitor status in order to accompany a principal applicant who is coming to the United States to work as a temporary worker (H-1B, L-1, O-1, etc.).<sup>1</sup>

Department of State and United States Citizenship and the Immigration Services (“USCIS”) regulations allow certain unmarried domestic partners<sup>2</sup> to enter the United States in B-2 visitor status to accompany their partner who is working in the U.S. in an employment- authorized nonimmigrant status. The non-working domestic partner (or “dependent applicant”) must demonstrate that the trip to the United States is temporary, and may be asked to show evidence of his or her ties to the home country. Most consulates and embassies will also want to see evidence that the non-working partner has been cohabitating with the working partner (“principal applicant”) for at least a year.

Please note B-2 nonimmigrants are not authorized to work, may not attend school, and may only be admitted to the United States for six months at a time. Although DHS policy allows Customs and Border Protection (“CBP”) officers to grant a 12-month period of admission for domestic partners of temporary workers, the officers have discretion to grant less time, and often only grant the standard six-month period of admission.<sup>3</sup> If you apply as a B-2 domestic partner, you will need to file an extension of stay through the USCIS, or leave and reenter the United States in order to stay longer than the initial admission period.

Please also be advised that the different embassies and consulates around the world have different visa application procedures, and these procedures change frequently. We therefore recommend that you consult the specific consulate or embassy’s website for the most up-to-date information on its procedures before booking an appointment. A directory of all U.S. embassies and consulates may be found at: <http://usembassy.gov>. Once you find the appropriate consulate's or embassy's homepage, you should navigate to the "Nonimmigrant Visa" page which should provide the necessary information.

Please also note that if you will be applying for your visa in a country other than your country of nationality or residence (“third country national” or “TCN” visa applications), you may be required to apply for a visa to enter that country. U.S. consular posts also have discretion not to adjudicate TCN applications, or may impose special requirements or longer wait times on such applications. Please check with our office for policies at specific embassies or consular posts.

---

<sup>1</sup> This memo is intended for clients of Goeschl Law Corporation and is for informational purposes only. While we hope that this information is helpful as general background information, we cannot warrant its applicability, accuracy, or completeness, given the many intricacies of specific factual circumstances and scenarios and the frequent changes to immigration policy and procedures. Please also note that this memo does not cover procedures for any other visa classifications.

<sup>2</sup> Please note that the rule allowing domestic partners to enter in B-2 status does not apply to legally married spouses of temporary workers, who must apply for a dependent visa under the principal applicant’s work-authorized classification (H-4, L-2, O-3, etc.).

<sup>3</sup> Customs and Border Protection officers generally grant six months for persons applying for admission in B-2 status. Although DHS guidance instructs officers to grant up to 12 months for domestic partners and cohabitating family members who are accompanying a person in a long-term nonimmigrant status, they rarely do.

### COMPLETING THE FORM DS-160 VISA APPLICATION

Each visa applicant (including each accompanying family member) must complete a Form DS-160 *before* booking a visa appointment. Form DS-160 is completed online at the U.S. Department of State website at <https://ceac.state.gov/genniv>. You will upload a digital photo as part of the electronic-filing (“e-filing”) process. Photo specifications are standard, face-forward passport photos.<sup>4</sup> You will need to make at least one attempt to upload a photo to generate the barcode required for appointment booking. Note that characters such as ñ, é, ü, ç are not recognized by the system.

Answers to some of the questions are noted below:

#### Are you the principal applicant?

For a domestic partner applying in B-2 status, you should answer the question **“Yes.”**

#### U.S. Address

If you do not already have a residence in the United States, please indicate “in care of” the principal applicant’s employer’s name and address.

#### Purpose of Trip to the United States

Select **“Business/Personal Travel (B1/B2).”**

#### Intended Length of Stay in the United States

You should indicate the period of time that the principal applicant is authorized to work in the United States, as indicated on the approval notice or visa stamp. Note that in most cases you will not be admitted for more than 6 months, and will be required to file an extension with the USCIS, or leave and reenter to stay longer.

#### Persons Paying for Your Trip

This should be the principal applicant in most cases.

For more information on completing the Form DS-160 Visa Application, please contact our office or visit: <https://travel.state.gov/content/visas/en/forms/ds-160--online-nonimmigrant-visa-application/frequently-asked-questions.html>.

Upon e-filing, a Barcode Number will be generated. Please save and print your DS-160 confirmation page (you will bring this to your visa appointment). We also advise that you save a copy of the Form DS-160 application in its entirety for your records.

### BOOKING A VISA APPOINTMENT

There are nearly 300 U.S. embassies and consular posts around the world, and most of them have different visa appointment booking procedures. You will therefore need to refer to the specific post's website for its latest instructions. Please also feel free to contact our office if you have questions. In most cases, you will

---

<sup>3</sup> See the Department of State's website for complete specifications at: <https://travel.state.gov/content/visas/en/general/photos.html>.

have to call an "appointment call center" and pay an appointment booking fee using a credit card to book the appointment.

Note that depending on location, the consular booking service may allow you to book your appointment as a group with the principal applicant. If you cannot book your appointment at the same time as the principal, the principal applicant should apply first and provide enough time so that you will have evidence of his/her approved visa by the time of your own appointment.

**Important Note:** For some consulates and embassies, appointments must be scheduled several weeks prior to your desired interview date. You should therefore book an appointment as far in advance as possible.

#### PAYMENT OF VISA FEES

As with appointment booking procedures, U.S. embassies and consulates all have different procedures for paying the \$160 USD MRV (Machine Readable Visa) fee. Please consult the specific post's website for the latest payment procedures. In most cases, the appointment call center will advise you of these procedures.

**Important Note:** Citizens of some countries are required to pay an additional "reciprocity fee." Generally, this fee is paid at the Embassy on the date of your appointment.

#### REQUIRED DOCUMENTATION

You will need to submit the following documents to the U.S. embassy or consulate at the time of your appointment:

- **Form DS-160.** Once the DS-160 has been e-filed, please print a copy of the Confirmation Page with the bar-code and the completed application, and bring this with you to the U.S. embassy or consulate at the time of your appointment.

**Important Note:** The U.S. embassy or consulate will not be able to process your visa if you do not have the Form DS-160 Confirmation page in your possession.

- **Photograph.** As noted above, you will need to upload a digital photograph as part of the Form DS-160 visa application. We also recommend that you bring an identical hardcopy photograph at the time of your interview.
- **Appointment Notice.** For most posts, this will be generated and emailed to you once you have booked your appointment. Note that some posts do not generate a notice, and you will only be given a confirmation number over the phone. You should review this document carefully, as it may contain important post-specific information not covered in this memo.
- **Receipt for Visa Application (MRV) Fee.** Each applicant is required to pay the non-refundable visa application fee of US \$160 prior to the appointment date. At most locations, this fee is paid at the time of the visa appointment booking. Please refer to the embassy or consulate's website on specific instructions to pay this fee.

- **Valid Passport.** Each applicant must bring a passport containing at least 2 blank pages, and any expired passports with previous U.S. visa(s).

**Important Note:** The passport must have at least 6 months of validity.

- **Third Country National (TCN).** If you are applying as a TCN, you must bring evidence of your visa status in the country where you will be applying for your visa at the time of the interview.
- **Reciprocity Fee.** Some nationals are required to pay the Reciprocity fee. Please visit <https://travel.state.gov/content/visas/en/fees/reciprocity-by-country.html> to determine if you are required to pay this fee.
- **Form I-797 Approval Notice for Principal Applicant (if applicable).** This document applies to many employment-authorized nonimmigrant statuses including H-1B, L-1, and O-1. Note an approval notice is inapplicable to principal applicants for E-1, E-2, E-3, L-1 blanket, TN, and H-1B1 statuses.
- **Principal Applicant's Visa Stamp.** If you are applying after the principal applicant, you should bring a copy of the principal applicant's visa stamp for L-1, H-1 or other long-term nonimmigrant status.
- **Employment Verification Letter or Pay Records of Principal Applicant.** If the principal applicant is already working in the United States, we recommend bringing copies of the applicant's recent pay records or an employment verification letter.
- **Evidence of Ties to Your Home Country.** Although regulations allow for domestic partners to accompany their partners in nonimmigrants who are working long-term in the United States, B-2 visitors may still be required to show evidence that they are only coming to the United States for a temporary period. We recommend bringing evidence of property that you will keep in your home country, club memberships, bank account statements, etc.
- **Evidence of Financial Resources.** The principal applicant's offer of employment with a U.S. employer should be sufficient to show financial resources to cover your support while in the United States. However, some consular officers may ask for additional evidence of your financial means. For this reason, we recommend bringing bank account, brokerage, or other financial statements.
- **Evidence of Cohabitation with Principal Applicant.** Please bring documentary evidence to show you have been cohabitating with the principal applicant for at least 6 months (note that many consular posts may want to see evidence showing cohabitation for a year). Examples include:
  - Insurance policies showing both applicants' names;
  - Rental agreements listing both applicants;
  - Joint bank account, credit card statements;
  - Property deeds listing both applicants; and
  - Civil union or domestic partner registration documents.
- **Additional Documentation.** Some embassies and consulates also require additional documentation for domestic partners applying in B-2 status. Please consult the post's website or contact our office.

### THE VISA INTERVIEW

Please review the information provided on your visa appointment notice, which usually provides specific information on the appointment procedures for the consulate or embassy where you will be applying. You should arrive 30 minutes prior to the appointment, and bring all of the required documentation listed above, and in the appointment notice.

Visa interviews usually only last a few minutes, but you may be required to wait several hours before you meet with the consular official conducting the interview. As an applicant for B-2 visitor status as a domestic partner, you will likely be asked about your relationship with the principal work-authorized applicant. You may be asked to present evidence showing how long you have lived together, as well as ties to your home country. Note that if the consular officer feels that you are “just dating” and not actually living together in a long-term relationship, he/she may deny the B-2 visa.

At the conclusion of the interview, the consular officer will either notify you that the visa application has been approved, denied, or that additional “administrative processing” is necessary (see below). If approved, you should receive your passport back with the issued visa within a few days. The visa should be annotated to indicate that you are a domestic partner of a temporary worker, and also list your partner’s name and his or her visa classification. Because officers sometimes forget to make this annotation, we suggest asking about it at the time of the visa interview, which may help to remind them. You can ask “Will my visa be annotated to indicate that I am an accompanying domestic partner?” If “administrative processing” is required, or in the unlikely event that the visa is denied, please notify the appropriate contact person at your company, or an attorney at our office right away.

### APPLICATION PROCESSING TIME AND “ADMINISTRATIVE PROCESSING”

In most cases, your passport with the approved will be returned to you within 2-5 days of your appointment. In some cases, however, applications may take significantly longer depending on the applicant's background. As noted above, some applications are referred for “administrative processing” which can take several weeks or even months. Such processing is more likely for persons who are nationals of certain countries, have a certain kind of professional or political background, and/or have been previously arrested. **Please notify Goeschl Law Corporation if you have ever been arrested or have had previous immigration violations as soon as possible prior to making your visa appointment.** We will advise you if we believe that administrative process delays are likely in your case. However, the decision to refer an application for such processing is entirely within the discretion of the consular officer reviewing your application, so any application may be subject to such processing. Visa applications are also occasionally delayed by weather conditions and other unforeseeable circumstances. For these reasons, we recommend that you do not make non-refundable or non-changeable travel plans to the U.S. until your passport with the issued visa has been returned to you by the U.S. Consulate or Embassy.

Please contact our office if you need additional assistance with your B-2 visa application.