

MRN: 17 STATE 23338

Date/DTG: Mar 10, 2017 / 102253Z MAR 17

From: SECSTATE WASHDC

Action: SOMALIA, USMISSION ROUTINE ;
ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE ROUTINE

E.O.: 13526

TAGS: CMGT, KPAO, PTER, KHLS

Captions: SENSITIVE

Reference: A) 17 STATE 8708

B) 17 STATE 9516

C) 17 STATE 11004

D) 17 STATE 21026

Subject: (SBU) NEW EXECUTIVE ORDER 13780: PROTECTING THE NATION FROM
FOREIGN
TERRORIST ENTRY INTO THE UNITED STATES - GUIDANCE TO VISA-ISSUING
POSTS

1. (SBU) Summary: On March 6, 2017, the President issued a new Executive Order, E.O. 13780, (new E.O.), entitled Protecting the Nation from Foreign Terrorist Entry into the United States. The new E.O. contains provisions that will impact visa adjudication and issuance procedures beginning on the new E.O.'s effective date, 12:01 a.m. Eastern Daylight Time (EDT) March 16, 2017. The new E.O. rescinds its predecessor, E.O. 13769 ("old E.O."). We are working with the Department of Justice to determine when and how we may proceed with implementing the new E.O., in light of pending litigation. All visa issuing posts should carefully review and prepare to implement this guidance effective 12:01 a.m. EDT March 16, 2017. Although posts should be prepared to implement this guidance as of that date and time, do not begin implementation until you receive authorization to do so; such authorization will be sent in a subsequent cable. Any modifications to this guidance, due to litigation or other reasons, will also be sent in a subsequent cable. Public talking points and additional operational resources will be updated and available on CA Web. The full text of the E.O. is available here.

2. (SBU) Suspension of entry into the United States for aliens from certain countries: The new E.O. exercises the President's authority under sections 212(f) and 215(a)(1) of the Immigration and Nationality Act (INA) to suspend entry into the United States of certain aliens from the following countries for 90 days as of the new E.O.'s effective date, 12:01 a.m. EDT March 16, 2017: Iran, Libya, Somalia, Sudan, Syria, and Yemen. Additionally, posts must complete required additional visa screening steps for nationals of Iraq. Guidance will be sent septel outlining the new issuance procedures for Iraqi nationals. The suspension of entry in the new E.O. does not apply to individuals who are inside the United States on the effective date of the new E.O. (i.e., 12:01 a.m. EDT March 16, 2017), who have a valid visa on the effective date of the new E.O. or who had a valid visa at 5:00 p.m. EDT January 27, 2017, even after their visas expire or they leave the United States. The suspension of entry also does not apply to other categories of individuals, as detailed below. The new E.O. states that no visas will be revoked based on the new E.O. New applicants will be reviewed on a case-by-case basis, with consular officers taking into account the scope and exception provisions in the new E.O. and the applicant's qualification for a discretionary waiver. End summary.

Nonimmigrant Visas

3. (SBU) GSS vendors and posts should continue scheduling NIV applicants of the six indicated

nationalities. The new E.O. provides for a number of exemptions from its scope and includes waiver provisions, and whether an applicant is exempt or qualified for a waiver can only be determined on a case-by-case basis during the course of a visa interview.

4. (SBU) After the Department sends the cable instructing posts to begin implementing the new E.O., NIV applicants presenting passports from any of the six countries included in the new E.O. should be interviewed and adjudicated following these procedures:

a.) Officers should first determine whether the applicant is eligible for a visa under the INA, without regard to the new E.O. If the applicant is not eligible, the appropriate refusal code should be entered into the Consular Lookout and Support System (CLASS). See 9 FAM 303.3-4(A). Posts must follow existing FAM guidance in 9 FAM 304.2 to determine whether an SAO must be submitted. Applicants found ineligible for grounds unrelated to the new E.O. should be refused according to standard procedures.

b.) If an applicant is found otherwise eligible for the visa, the consular officer will need to determine during the interview whether the applicant is exempt from the new E.O.'s suspension of entry provision (see paragraphs 8-9), and if not, whether the individual qualifies for a waiver (see paragraphs 10-14).

c.) Applicants who are not exempt from the new E.O.'s suspension of entry provision and who do not qualify for a waiver should be refused by entering the code "EO17" into the Consular Lookout and Support System (CLASS). As coordinated with DHS, this code represents a Section 212(f) denial under the new E.O.

Immigrant Visas

5. (SBU) The National Visa Center (NVC) will continue to schedule immigrant visa (IV) appointments for all categories and all nationalities. However, NVC will not send any V93 cases to posts. After receiving cable instructions to begin implementing the new E.O., posts should halt the issuance of V93 foils immediately and cancel any scheduled V93 appointments (please see refugee paragraph below). Posts should continue to interview all other IV applicants presenting passports from any of the six countries included in the new E.O., following these procedures:

a.) Officers should first determine whether the applicant is eligible for the visa, without regard to the new E.O. If the applicant is not eligible, the application should be refused according to standard procedures.

b.) If an applicant is found otherwise eligible for the visa, the consular officer will need to determine during the interview whether the applicant is exempt from the new E.O.'s suspension of entry provision (see paragraphs 8-9), and if not, whether the applicant qualifies for a waiver (paragraphs 10-14).

c.) Immigrant visa applicants who are not exempt from the new E.O.'s suspension of entry provision and who do not qualify for a waiver should be refused 221(g) and the consular officer should request an advisory opinion from VO/L/A.

Diversity Visas

6. (SBU) For Diversity Visa (DV) applicants already scheduled for interviews falling after the new E.O. effective date of 12:01 a.m. EDT March 16, 2017, post should interview the applicants. After receiving cable instructions to implement the new E.O., posts should interview applicants following these procedures:

a.) Officers should first determine whether the applicant is eligible for the DV, without regard to the new E.O. If the applicant is not eligible, the application should be refused according

to standard procedures.

b.) If an applicant is found otherwise eligible, the consular officer will need to determine during the interview whether the applicant is exempt from the new E.O.'s suspension of entry provision (see paragraphs 8-9), and if not, whether the applicant qualifies for a waiver (paragraphs 10-14). Based on the Department's experience with the DV program, we anticipate that very few DV applicants are likely to be exempt from the E.O.'s suspension of entry or to qualify for a waiver. If a scheduled applicant is not exempt and does not qualify for a waiver, please request an advisory opinion from VO/L/A.

7. (SBU) The Kentucky Consular Center (KCC) will schedule additional DV appointments on dates after the period of suspension ends for cases in which the principal applicant is from one of these six nationalities. If a derivative applicant appears qualified but is subject to the new E.O., KCC will enter a case note in the DS-260 to alert post. If post becomes aware of a DV case that has not been scheduled from one of these six countries due to this guidance, but which may not be covered by the new E.O., or may qualify for a waiver, coordinate with KCC to schedule the case for an interview (if the case is current) and a determination by a consular officer of whether or not the E.O. applies.

Individuals Who Are Exempt from the New E.O.'s Suspension of Entry

8. (SBU) The new E.O.'s suspension of entry does not apply to the following:

- a.) Any applicant who was in the United States on the new E.O.'s effective date of March 16, 2017;
- b.) Any applicant who had a valid visa at 5:00 p.m. EST on January 27, 2017, the day the old E.O. 13769 was signed;
- c.) Any applicant who had a valid visa on the new E.O.'s effective date of March 16, 2017.
- d.) Any lawful permanent resident of the United States;
- e.) Any applicant who is admitted to or paroled into the United States on or after the effective date of the new E.O.;
- f.) Any applicant who has a document other than a visa, valid on the effective date of the new E.O. or issued on any date thereafter, that permits him or her to travel to the United States and seek entry or admission, such as advance parole;
- g.) Any dual national of a country designated under the order when traveling on a passport issued by a non-designated country;
- h.) Any applicant traveling on an A-1, A-2, NATO-1 through NATO-6 visa, C-2 for travel to the United Nations, C-3, G-1, G-2, G-3, or G-4 visa, or a diplomatic-type visa of any classification; and
- i.) Any applicant who has been granted asylum; any refugee who has already been admitted to the United States; or any individual who has been granted withholding of removal, advance parole, or protection under the Convention Against Torture.

9. (SBU) When issuing an IV or an NIV to an individual who falls into one of the categories listed in paragraph 8, the visa should be annotated to state, "Exempt from E.O. 13780." Interviewing officers must also enter a clear case note stating the specific reason why the applicant is exempt from the new E.O.'s suspension of entry.

Qualification for a Waiver and Process

10. (SBU) The new E.O. permits consular officers to grant waivers and authorize the issuance of a visa on a case-by-case basis when the applicant demonstrates to the officer's satisfaction that:

- a.) Denying entry during the 90-day suspension would cause undue hardship;
- b.) His or her entry would not pose a threat to national security; and
- c.) His or her entry would be in the national interest.

11. (SBU) The new E.O. lists the following examples of circumstances in which an applicant may be considered for a waiver, subject to meeting the three requirements above. Unless the adjudicating consular officer has particular concerns about a case, determining that a case falls under any circumstance listed in this paragraph is a sufficient basis for concluding a waiver is in the national interest. Determining that a case falls under some of these circumstances may also be a sufficient basis for concluding that denying entry during the 90-day suspension would cause undue hardship:

- a.) The applicant had previously been admitted to the United States for a continuous period of work, study, or other long-term activity, is outside the United States on the effective date of this order, seeks to reenter the United States to resume that activity, and the denial of reentry during the suspension period would impair that activity;
- b.) The applicant has previously established significant contacts with the United States but is outside the United States on the effective date of the new E.O. for work, study, or other lawful activity;
- c.) The applicant seeks to enter the United States for significant business or professional obligations and the denial of entry during the suspension period would impair those obligations;
- d.) The applicant seeks to enter the United States to visit or reside with a close family member (e.g., a spouse, child, or parent) who is a U.S. citizen, lawful permanent resident, or alien lawfully admitted on a valid nonimmigrant visa, and the denial of entry during the suspension period would cause undue hardship;
- e.) The applicant is an infant, a young child, or adoptee, an individual needing urgent medical care, or someone whose entry is otherwise justified by the special circumstances of the case;
- f.) The applicant has been employed by, or on behalf of, the United States government (or is the eligible dependent of such an employee) and the employee can document that he or she has provided faithful and valuable service to the United States government;
- g.) The applicant is traveling for purposes related to an international organization designated under the International Organizations Immunities Act, traveling for purposes of conducting meetings or business with the United States government, or traveling to conduct business on behalf of an international organization not designated under the IOIA;
- h.) The applicant is a legal resident of Canada who applies for a visa at a location within Canada; or
- i.) The applicant is traveling as a U.S. government-sponsored exchange visitor.

12. (SBU) Listed in this paragraph are other circumstances in which an applicant may be considered for a waiver, subject to meeting the three requirements in paragraph 10. Unless the adjudicating consular officer has particular concerns about a case, determining that a case falls under any circumstance listed in this paragraph is a sufficient basis for concluding a waiver is in the national interest. Determining that a case falls under some of these circumstances may also be a sufficient basis for concluding that denying entry during the 90-day suspension would cause undue hardship:

- a.) The applicant is a high-level government official traveling on official business who is not eligible for the diplomatic visa normally accorded to foreign officials of national

governments (A or G visa). Examples include governors and other appropriate members of sub-national (state/local/regional) governments; and members of subnational and regional security forces;

b.) The applicant is traveling to participate in a Department of Defense (DoD) program that DoD deems mission critical;

c.) The applicant is traveling to participate in a major cultural, media, and other national event such as a U.S. Olympic Committee sponsored competition that would support U.S. government objectives; and

d.) Cases where all three criteria in paragraph 10 are met and the Chief of Mission or Assistant Secretary of a Bureau supports the waiver.

13. (SBU) If the applicant qualifies for a waiver based on criteria in paragraph 11 or 12, the consular officer may issue the visa with the concurrence of the Visa Chief (IV or NIV) or the Consular Section Chief. The visa should be annotated to read, "Waiver of Executive Order Approved." Case notes must reflect the basis for the waiver; the undue hardship that would be caused by denying entry during the suspension; the national interest; and the position title of the manager concurring with the waiver. To document national interest in case notes in circumstances falling under paragraph 11 or paragraph 12(a), (b), or (c), the consular officer may write, "National interest was established by the applicant demonstrating satisfaction of the requirements for the waiver based on [insert brief description of category of waiver]."

14. (SBU) If the applicant does not qualify under one of the listed waiver categories in paragraphs 11 or 12, but the interviewing officer and consular manager believe that the applicant meets the requirements in paragraph 10 above and therefore should qualify for a waiver, then the case should be submitted to the Visa Office for consideration. These cases should be submitted via email to countries-of-concern-inquiries@state.gov. The Visa Office will review these requests and reply to posts within two business days. Consular officers should be able to approve the majority of waiver cases without review by the Visa Office due to the broad authority granted in the new E.O.

Special Visa Issuance Procedures for Nationals of Iraq

15. (SBU) Guidance will be sent septel outlining new issuance procedures for Iraqi nationals. Refugees

16. (SBU) The U.S. Refugee Admissions Program (USRAP) is suspended for 120 days. This includes the processing of boarding foils for any V93 cases, regardless of nationality, since those follow-to-join cases are admitted to the United States as refugees. After receiving cable instructions to implement the new E.O., posts should halt the issuance of these cases immediately and cancel any scheduled V93 appointments. NVC will halt the processing of all V93 cases and will not forward these cases to posts. The Department will notify posts when the suspension is lifted.

V92 Cases

17. (SBU) Guidance on V92 cases will follow.

Revocations or Cancellations Under E.O. 13769

18. (SBU) The new E.O. states that any individual whose visa was marked revoked or marked canceled as a result of the old E.O. shall be entitled to a travel document confirming that the individual is permitted to travel to the United States and seek entry. CA has already begun

working with CBP to issue travel documents for certain individuals whose visas were either cancelled or revoked. Please contact your VO/F post liaison officer for instructions if you are contacted by any individual requesting a travel document under Section 12(d) of the new E.O.

Interview Waiver Program

19. (SBU) The Interview Waiver Program guidance in ref A remains unchanged, except that posts may now continue waiving interviews using current guidance for TECRO E-1 visa applicants, in addition to the categories listed in ref A.

in CA/VO/F.

21. (U) Minimize considered.

Signature: Tillerson

MRN: 17 STATE 24324

Date/DTG: Mar 15, 2017 / 150151Z MAR 17

From: SECSTATE WASHDC

Action: SOMALIA, USMISSION IMMEDIATE ;

ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE IMMEDIATE

E.O.: 13526

TAGS: CMGT, CVIS, PTER, KHLS

Captions: SENSITIVE

Reference: 17 STATE 23338

Subject: (SBU) Implementing Immediate Heightened Screening and Vetting of Visa Applications

1. (SBU) THIS IS AN ACTION REQUEST. Executive Order (E.O.) 13780 on Protecting the Nation from Terrorist Attacks by Foreign Nationals suspends visa issuance to nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen for 90 days, subject to certain exemptions and exceptions. This guidance supplements the guidance in 17 STATE 23338. The suspension does not go into effect until March 16 and additional implementation authorization will be forthcoming.

2. (U) Simultaneous with the release of the E.O. on March 6, 2017, the President also signed a Memorandum for the Secretary of State, the Attorney General, the Secretary of Homeland Security. Section 2 of the memorandum states: "The Secretary of State and the Secretary of Homeland Security, in consultation with the Attorney General, shall, as permitted by law, implement protocols and procedures as soon as practicable that in their judgment will enhance the screening and vetting of applications for visas and all other immigration benefits, so as to increase the safety and security of the American people. These additional protocols and procedures should focus on:

(a) preventing the entry into the United States of foreign nationals who may aid, support, or commit violent, criminal, or terrorist acts; and

(b) ensuring the proper collection of all information necessary to rigorously evaluate all grounds of inadmissibility or deportability, or grounds for the denial of other immigration benefits."

3. (U) The President also underscored:

"[T]his Nation cannot delay the immediate implementation of additional heightened screening and vetting protocols and procedures for issuing visas to ensure that we strengthen the safety and security of our country.

Moreover, because it is my constitutional duty to 'take Care that the Laws be faithfully executed,' the executive branch is committed to ensuring that all laws related to entry into the United States are enforced rigorously and consistently."

4. (SBU) The E.O. and Presidential Memorandum highlight the critical importance of maintaining extra vigilance in the conduct of our work and continuing to increase scrutiny of visa applicants for potential security and non-security related ineligibilities. Consular officers should not hesitate to refuse any case presenting

security concerns under §221(g) of the Immigration and Nationality Act (INA) in order to explore all available local leads and pending the outcome of an SAO as appropriate, or issue any other refusals or take other precautionary actions pursuant to any applicable ground of inadmissibility under the INA. All officers should remember that all visa decisions are national security decisions. Any nonimmigrant visa applicant whom the consular officer believes may fail to abide by the requirements of the visa category in question should be refused under §214 (b) of the INA.

5. (SBU) As part of our ongoing efforts to refine and improve visa applicant vetting, to supplement the initiatives set out in the E.O. and the concepts undergirding the Presidential Memoranda, the Department instructs posts to implement immediately the following screening processes for all visa applicants. These are preliminary measures. Additional screening measures will be introduced based on the conclusions of the interagency working group mandated by the E.O. Increased Screening Worldwide of Certain Visa Populations

6. (SBU) Consular Chiefs must immediately convene post's law enforcement and intelligence community partners under the auspices of existing Visa Viper or Law Enforcement Working Groups, as appropriate. These working groups will develop a list of criteria identifying sets of post applicant populations warranting increased scrutiny.

7. (SBU) Once posts have documented these population sets, posts are required to direct adjudicating consular officers to attempt to identify individual applicants that fall within the population set during the course of a consular visa interview. If the applicant is otherwise eligible for a visa (including overcoming INA 214(b) for nonimmigrant visa applicants), the interviewing consular officer should consider sending a discretionary Donkey Security Advisory Opinion (SAO) request. For SAO requests based on this guidance, as for all other SAO requests, officers must ask additional questions directly related to understanding the applicant's answers on application forms, which may include subjects such as those listed below, and should provide applicant responses to the following questions in the "Additional Information Optional" field:

- The applicant's travel history over the last 15 years;
- The names of any siblings/children/former spouses not recorded in the DS-160/260 or NIV/IVO case notes;
- The applicant's addresses during the last 15 years, if different from the applicant's current address;
- Applicant's prior passport numbers;
- Applicant's prior occupation(s) and employers (plus a brief description if applicable) looking back 15 years;
- All phone numbers used by the applicant in the last five years;
- All email addresses and social media handles used by the applicant in the last five years.

8. (SBU) As part of its working group with post's law enforcement and intelligence community partners, posts may augment these series of seven questions as appropriate.

Increased Screening for nationals of Iran, Yemen, Sudan, Syria, Somalia and Libya

(SBU) Mandatory SAOs for non-official travelers

9. (SBU) Effective immediately and until further notice, a Donkey SAO is required for every visa applicant (other than A/G/C-2/C-3/NATO) who:

- is at least 16 years of age and less than 65 years of age; and
- applying with a passport from Iran, Libya, Somalia, Sudan, Syria, or Yemen.

10. (SBU) Post should only submit the Donkey SAO once the consular officer has determined that the applicant:

- is applying for a visa category other than A/G/C-2/C-3/NATO;
- is otherwise eligible for the visa (i.e. not ineligible under INA section 214 (b) or other ineligibilities);
- qualifies for a case-by-case waiver of the suspension of entry under the E.O. in the consular officer's discretion; and,
- is not/not an applicant for whom post is already required to submit a Donkey, Mantis, or Merlin/Merlin 92 SAO under existing guidance in 9 FAM 304.2, Security Advisory Opinions (SAO) or 9 FAM 304.5, Special Clearance and Issuance Procedures.

11. (SBU) When the guidance in this ALDAC is the sole reason for submitting an SAO for an applicant, consular officer:

- must submit a Donkey SAO and select "Policy" as the reason for submission; and
- must write "EO 13780" in the "Additional Information Optional" field.

12. (SBU) For SAO requests based on this guidance, as for all other SAO requests, officers must ask additional questions directly related to understanding the applicant's answers on application forms, which may include subjects such as those listed below, and should provide applicant responses to the following questions in the "Additional Information Optional" field:

- The applicant's travel history over the last 15 years;
- The names of any siblings/children/former spouses not recorded in the DS-160/260 or NIV/IVO case notes;
- The applicant's addresses during the last 15 years, if different from the applicant's current address;
- Applicant's prior passport numbers;
- Applicant's prior occupation(s) and employers (plus a brief description if applicable) looking back 15 years;
- All phone numbers used by the applicant in the last five years;
- All email addresses and social media handles used by the applicant in the

last five years.

-- Whether the applicant was ever present in a territory at the time it was under the control of ISIS. Location, dates, and purpose of presence must be thoroughly documented by the consular officer.

13. (SBU) Because applicants without advance notice may be unable to provide this information at the time of the initial interview, posts should give applicants notice, in advance of the visa interview, that they will be asked to provide their addresses during the last 15 years, if different from the applicant's current address; their prior passport numbers; their prior occupation(s) and employers for the past 15 years; all phone numbers used by the applicant in the last five years; and all email addresses and social media handles they have used in the last five years. Posts should determine the best way to communicate this advance notice. If applicants are unable to provide this information at the time of the interview, then, as in any case where additional information is required for an SAO, consular officers may refuse an application under 221(g) in order to solicit the information subsequent to the interview. Posts are reminded not to create standalone forms or questionnaires to solicit this information, but may include a request that applicants bring any previous passport data to the interview on post websites and/or GSS appointment letters.

14. (SBU) All existing SAO requirements for nationals from these six countries remain in effect, including existing SAO guidance in 9 FAM 304.2, Security Advisory Opinions (SAO), for Donkey, Bear, Mantis, and Merlin/Merlin 92 SAOs based on IACT/PATRIOT Red, CLASS Hits, TAL, or Officer Discretion, and the country-specific Policy SAO guidance in 9 FAM 304.5, Special Clearance and Issuance Procedures, among other sections.

(SBU) Mandatory social media check for applicants present in a territory at the time it was controlled by ISIS

15. (SBU) If post determines the applicant may have ties to ISIS or other terrorist organizations or has ever been present in an ISIS-controlled territory, post must/must refer the applicant to the Fraud Prevention Unit for a mandatory social media review, as described in more detail in 7-FAH-1 H-943.5-2. The results of this review should be scanned into the NIV case for consideration during the SAO process. Details on complying with this requirement will be provided via septel.

(SBU) Mandatory Donkey SAO for Iraqi nationals with presence in territory at the time it was controlled by ISIS

16. (SBU) While the E.O. exempts nationals of Iraq from the travel suspension provisions of Section 2, the Presidential Memorandum and Sections 1(g) and Section 4 of the E.O. contemplate additional screening for Iraqi nationals in addition to the robust vetting already in place.

17. (SBU) Effective immediately and until further notice, when adjudicating an application from an Iraqi national applying with an Iraqi passport, consular offices

must consider whether the applicant was ever present in a territory at the time it was controlled by ISIS. If so, post must submit a Donkey Security Advisory Opinion (SAO) for these applicants, other than those applying for an A/G/C-2/C-3/NATO visa. For SAO requests pursuant to this section, posts should follow the guidance in paragraphs 9-13 regarding additional lines of inquiry for submission with the SAO and necessary social media checks.

(SBU) Mandatory review of IV issuances

18. (SBU) Effective immediately and until further notice, consular managers are required to conduct a managerial review of all IV issuances for applicants applying with a passport from of Iran, Iraq, Libya, Somalia, Sudan, Syria, or Yemen.

(SBU) Interview Guidelines

19. (SBU) In order to ensure that proper focus is given to each application, posts should generally not schedule more than 120 visa interviews per consular adjudicator/per day. Please confer with EX and VO if you plan to schedule more than 120 cases per day. CA recognizes that limiting scheduling may cause interview appointment backlogs to rise.

20. (U) Minimize considered.

Signature: Tillerson

MRN: 17 STATE 24800

Date/DTG: Mar 16, 2017 / 161240Z MAR 17

From: SECSTATE WASHDC

Action: SOMALIA, USMISSION IMMEDIATE ;

ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE IMMEDIATE

E.O.: 13526

TAGS: CMGT, CVIS, KPAO, KHLS, PTER

Captions: SENSITIVE

Reference: A) 17 STATE 23338

B) 17 STATE 24324

Correction Reason: CORRECTED COPY: ADDING SOMALIA

Subject: (SBU) EXECUTIVE ORDER 13780: PROTECTING THE NATION FROM FOREIGN

TERRORIST ENTRY INTO THE UNITED STATES - GUIDANCE TO VISA ISSUING POSTS: HALT IMPLEMENTATION

1. (SBU) The United States District Court in Honolulu, Hawaii, has issued an order barring the U.S. government from enforcing sections 2 and 6 of Executive Order (E.O.) 13780 on Protecting the Nation from Foreign Terrorist Entry Into the United States; section 2 relates to the suspension of entry to the United States and the issuance of visas. The order took effect immediately, so all enforcement of the visa suspension in the Executive Order must not be implemented and visa processing must continue as normal without processing of waivers or exemptions as outlined in Ref A.

2. (SBU) Posts should continue to follow the guidance in paragraphs 6-8 and 15-17 in Ref B on heightened screening and vetting of populations of visa applicants to be defined by posts in accordance with paragraph 6. Out of an abundance of caution, posts should not implement paragraphs 9-12 and 18 of Ref B pending further review and instructions from the Department. In addition, to the extent that posts implement additional vetting pursuant to paragraph 7 of Ref B, they should notify applicants in advance in accordance with paragraph 13 of Ref B.

3. (U) Minimize considered.

Signature: Tillerson

MRN: 17 STATE 25814

Date/DTG: Mar 17, 2017 / 172040Z MAR 17

From: SECSTATE WASHDC

Action: SOMALIA, USMISSION IMMEDIATE ;

ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE IMMEDIATE

E.O.: 13526

TAGS: CMGT, CVIS, KPAO, KHLS, PTER

Captions: SENSITIVE

Reference: A) 17 STATE 24324

B) 17 STATE 24800

Subject: SUPERSEDING 17 STATE 24324: IMPLEMENTING IMMEDIATE

HEIGHTENED

SCREENING AND VETTING OF VISA APPLICATIONS

1. (SBU) THIS IS AN ACTION REQUEST. This guidance supersedes that provided to the field

field in REFTEL A.

2. (U) Simultaneous with the release of Executive Order 13780 on Protecting the Nation from Terrorist Attacks by Foreign Nationals (E.O.) on March 6, 2017, the President signed a Memorandum for the Secretary of State, the Attorney General, the Secretary of Homeland Security. Courts have temporarily barred the Department from enforcing section 2 of the E.O., which relates to the suspension of entry to the United States and the issuance of visas for nationals of designated countries, as well as section 6, which relates to the Refugee Admissions Program. This cable provides guidance for implementing section 2 of the Presidential Memorandum, which states: "The Secretary of State and the Secretary of Homeland Security, in consultation with the Attorney General, shall, as permitted by law, implement protocols and procedures as soon as practicable that in their judgment will enhance the screening and vetting of applications for visas and all other immigration benefits, so as to increase the safety and security of the American people. These additional protocols and procedures should focus on: (a) preventing the entry into the United States of foreign nationals who may aid, support, or commit violent, criminal, or terrorist acts; and (b) ensuring the proper collection of all information necessary to rigorously evaluate all grounds of inadmissibility or deportability, or grounds for the denial of other immigration benefits."

3. (U) The President also underscored:

"[T]his Nation cannot delay the immediate implementation of additional heightened screening and vetting protocols and procedures for issuing visas to ensure that we strengthen the safety and security of our country. Moreover, because it is my constitutional duty to 'take Care that the Laws be faithfully executed,' the executive branch is committed to ensuring that all laws related to entry into the United States are enforced rigorously and consistently."

4. (SBU) The E.O. and Presidential Memorandum highlight the critical importance of maintaining extra vigilance in the conduct of our work and continuing to increase

scrutiny of visa applicants for potential security and non-security related ineligibilities. Consular officers should not hesitate to refuse any case presenting security concerns under §221(g) of the Immigration and Nationality Act (INA) in order to explore all available local leads and pending the outcome of an SAO as appropriate, or issue any other refusals or take other precautionary actions pursuant to any applicable ground of inadmissibility under the INA. All officers should remember that all visa decisions are national security decisions. A consular officer should refuse under §214(b) of the INA any nonimmigrant visa applicant whom the consular officer believes may fail to abide by the requirements of the visa category in question.

5. (SBU) As part of our ongoing efforts to refine and improve visa applicant vetting, to supplement the initiatives set out in the E.O. (other than section 2) and the concepts undergirding the Presidential Memoranda, the Department instructs posts to implement immediately the following guidance. These are preliminary measures. Additional screening measures will be introduced based on the conclusions of the interagency working groups mandated by the E.O, acting in accordance with applicable court orders.

(U) Increased Screening Worldwide of Certain Visa Populations

6. (SBU) If they have not already done so in response to reftel A, Consular Chiefs must immediately convene post's law enforcement and intelligence community partners under the auspices of existing Visa Viper or Law Enforcement Working Groups, as appropriate. These working groups will develop a list of criteria identifying sets of post applicant populations warranting increased scrutiny.

7. (SBU) Once posts have documented these population sets, posts are required to direct adjudicating consular officers to attempt to identify individual applicants that fall within the population set during the course of a consular visa interview. If the applicant is otherwise eligible for a visa (including overcoming INA 214(b) for nonimmigrant visa applicants), the interviewing consular officer should consider sending a discretionary Donkey Security Advisory Opinion (SAO) request.

8. (SBU) In conducting visa interviews, consular officers must disregard the guidance in 17 STATE 24324, to the extent the guidance sets out specific questions to ask of applicants, unless and until notified by septel that the Department has received approval from the Office of Management and Budget (OMB) for those specific questions. Until that time, consular officers should, as always, ask additional questions as necessary to understand the applicant's answers on application forms, should thoroughly pursue any concerns that may arise during the interview, and should provide all relevant information in case notes or, when an SAO is warranted, in the "Additional Information Optional" field.

9. (SBU) Until the Department receives OMB approval for asking specific questions the Department would provide, officers should continue to follow all existing SAO guidance as outlined in 9 FAM 304.2, Security Advisory Opinions (SAO), for Donkey, Bear, Mantis, and Merlin/Merlin 92 SAOs based on IACT/PATRIOT Red, CLASS Hits, TAL, or

Officer Discretion, and the country-specific Policy SAO guidance in 9 FAM 304.5, Special Clearance and Issuance Procedures, among other sections.

(SBU) Mandatory social media check for applicants present in a territory at the time it was controlled by ISIS

10. (SBU) If post determines the applicant may have ties to ISIS or other terrorist organizations or has ever been present in an ISIS-controlled territory, post must/must refer the applicant to the Fraud Prevention Unit for a mandatory social media review, as described in more detail in 7- FAH-1 H-943.5-2. Post should scan the results of this review into the NIV case for consideration during the SAO process. Details on complying with this requirement will be provided via septel. If any post's Fraud Prevention Unit believes post has such a case, the Fraud Prevention Manager can contact post's CA/FPP and CA/VO/SAC liaison officers with any further questions.

(SBU) Mandatory Donkey SAO for Iraqi nationals with presence in territory at the time it was controlled by ISIS

11. (SBU) While the E.O. exempts nationals of Iraq from the travel suspension provisions of Section 2, the Presidential Memorandum and Sections 1(g) and Section 4 of the E.O. contemplate additional screening for Iraqi nationals in addition to the robust vetting already in place.

12. (SBU) Effective immediately and until further notice, when adjudicating an application from an Iraqi national applying with an Iraqi passport, consular officers must consider whether the applicant was ever present in a territory at the time it was controlled by ISIS. If so, post must submit a Donkey Security Advisory Opinion (SAO) for these applicants, except those applying for an A/G/C-2/C-3/NATO visa.

(SBU) Interview Guidelines

13. (SBU) In order to ensure that proper focus is given to each application, posts should generally not schedule more than 120 visa interviews per consular adjudicator/per day. Please that limiting scheduling may cause interview appointment backlogs to rise.

14. (U) Minimize considered.

Signature: Tillerson