

Traveling to the U.S.? You May Have to Provide Social Media and Other Personal Data to the U.S. Government

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What is the new proposed new rule?

The State Department posted two Federal Register notices that propose to revise questions it asks temporary and permanent visa applicants when applying to come to the U.S. The new proposed rule will revise consulate visa forms to include a question that will require applicants to list all social media platforms they used and to provide “any identifiers” used for the platforms in the five years preceding the application date.

In addition, applicants will also be asked to provide passport numbers, old phone numbers, email addresses, all international travel, whether they have had any immigration orders against them and whether any family member has engaged in terrorist activities. A 60-day public comment period on the notices ends on May 29, 2018.

What does this mean if you are planning travel to the U.S.?

This new proposal appears to expand the 2017 State Department program where it sought social media information from suspicious visa applicants “who have been determined to warrant additional scrutiny in connection with terrorism, national security-related, or other visa ineligibilities.” If the consular officer identified an applicant as such, they would be instructed to fill out Form DS 5535, Supplemental Question for Visa Applicants. However, it was not clear how the information on that form was going to be utilized and whether it would impact visa issuance. There were concerns then, and there are concerns now, that the proposed rule’s expansion to collect social media information may be an intrusion on privacy to both visa-seekers and U.S. citizens, whose information may be linked to a visa applicants social network.

It is important to note that DHS in general has already started to look at social media information. In September 2017, DHS redefined what constituted an official immigration file, expanding the scope of the record to include multiple electronic databases and paper records, social media handles and aliases, internet search results, information from commercial data providers, and information shared or obtained through information sharing agreements.

How many people will this impact?

It is reported that about 15 million people apply for a variety of visas to enter the U.S. temporarily or permanently on an annual basis. It is not clear how long consular officers will have to review such data and how the data will eventually impact a foreign national’s visa issuance. It appears that if the rule does go into effect, it would clearly cause delays for visa appointments at consulates. We will continue to monitor the progress of this proposed rule.

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