

**The following regulations discuss, in part, business visitor (B1) nonimmigrant visas to the U.S. Please review these, and related regulations, when seeking a b1 visa for an extended stay in the u.s. The burden of qualifying for any visa falls solely on the applicant.**

9 FAM 41.31 N3 Temporary Period of Stay

9 FAM 41.31 N3.1 Period of Time in United States Consistent with Purpose of Trip

(CT:VISA-701; 02-15-2005)

The period of time projected for the visit must be consistent with the stated purpose of the trip. The applicant must establish with reasonable certainty that departure from the United States will take place upon completion of the temporary visit. Although “temporary” is not specifically defined by either statute or regulation, it generally signifies a limited period of stay. The fact that the period of stay in a given case may exceed six months or a year is not in itself controlling, provided that you are satisfied that the intended stay actually has a time limitation and is not indefinite in nature.

9 FAM 41.31 N3.2 Specific and Realistic Plans

(CT:VISA-701; 02-15-2005)

The applicant must have specific and realistic plans for the entire period of the contemplated visit.

9 FAM 41.31 N7 Aliens Traveling to United States as Visitors for Business

(CT:VISA-1599; 10-28-2010)

a. Aliens who desire to enter the United States for business and who are otherwise eligible for visa issuance, may be classifiable as nonimmigrant B-1 visitors provided they meet the criteria described in [9 FAM 41.31 N8](#) through [9 FAM 41.31 N11](#). Engaging in business contemplated for B-1 visa classification generally entails business activities other than the performance of skilled or unskilled labor. Thus, the issuance of a B-1 visa is not intended for the purpose of obtaining and engaging in employment while in the United States. Specific circumstances or past patterns have been found to fall within the parameters of this classification and are listed below.

b. It can be difficult to distinguish between appropriate B-1 business activities, and activities that constitute skilled or unskilled labor in the United States that are not appropriate on B status. The clearest legal definition comes from the decision of the Board of Immigration Appeals in *Matter of Hira*, affirmed by the Attorney General. *Hira* involved a tailor measuring customers in the United States for suits to be manufactured and shipped from outside the United States. The decision stated that this was an appropriate B-1 activity, because the principal place of business and the actual place of accrual of profits, if any, was in the foreign country. Most of the following examples of proper B-1 relate to the *Hira* ruling, in that they relate to activities that are incidental to work that will principally be performed outside of the United States.

c. You may encounter a case involving temporary employment in the United States, which does not fall within the categories listed below. You should submit such cases to the Advisory Opinions Division

(CA/VO/L/A) of the Visa Office in accordance with the procedures in [9 FAM](#) 41.31 N12 for an advisory opinion (AO) to ensure uniformity and proper application of the law.

9 FAM 41.31 N8 Aliens Traveling to United States to Engage in Commercial Transactions, Negotiations, Consultations, Conferences, Etc.

(CT:VISA-701; 02-15-2005)

Aliens should be classified B-1 visitors for business, if otherwise eligible, if they are traveling to the United States to:

- (1) Engage in commercial transactions, which do not involve gainful employment in the United States (such as a merchant who takes orders for goods manufactured abroad);
- (2) Negotiate contracts;
- (3) Consult with business associates;
- (4) Litigate;
- (5) Participate in scientific, educational, professional, or business conventions, conferences, or seminars; or
- (6) Undertake independent research.

9 FAM 41.31 N11.1 Incidental Expenses or Remuneration

(CT:VISA-701; 02-15-2005)

A nonimmigrant in B-1 status may not receive a salary from a U.S. source for services rendered in connection with his or her activities in the United States. A U.S. source, however, may provide the alien with an expense allowance or reimbursement for expenses incidental to the temporary stay. Incidental expenses may not exceed the actual reasonable expenses the alien will incur in traveling to and from the event, together with living expenses the alien reasonably can be expected to incur for meals, lodging, laundry, and other basic services.

9 FAM 41.31 N12 Advisory Opinion (AO) Required if Applicant not Clearly Identifiable B-1

(CT:VISA-1365; 10-29-2009)

- a. An advisory opinion (AO) must be requested prior to the issuance of a B-1 visa in any case involving temporary employment in the United States, other than as clearly set forth in [9 FAM](#) 41.31 N9, [9 FAM](#) 41.31 N10, or [9 FAM](#) 41.31 N11. The Department recognizes that there are cases which might possibly be classifiable B-1, but which do not fit precisely within one of the classes described above. An AO is required in these cases to ensure uniformity and to avoid the issuance of a B-1 to an alien classifiable H-2 and thus subject to the safeguards of the petition and labor certification requirements.
- b. The request may be made through the AO feature in the nonimmigrant visas (NIV) process and must provide full details as to:

- (1) Occupation of the applicant;
- (2) Type of work to be performed;
- (3) Place and duration of the contemplated employment;
- (4) Source and amount of salary to be paid;
- (5) Identity of United States and/or foreign employer;
- (6) Your reasons for believing B-1 classification appropriate; and
- (7) Any other relevant information.

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