

I-775

Visa Waiver Program (VWP) Contract Kit

NOTICE TO APPLICANTS:

The Visa Waiver Program (VWP) enables signatory commercial carriers to transport nationals of certain countries to the United States without visas in accordance with Title 8, Code of Federal Regulations, Part 217. Applicants for VWP participation must provide: two (2) copies of Form I-775, each bearing the original signature of a company official authorized to contractually obligate the applying commercial carrier; the carrier's 2-letter airline designation code (if applicable); information as to the type and number of aircraft or vessels owned; a complete mailing address and telephone number, and the address in the United States of the carrier's legal agent. *The applicant must be a commercial carrier regularly involved in the transportation of ticketed passengers.* In addition, CBP requires satisfactory fines, liquidated damages, and user fee payment records as a condition precedent to approval of contracts. Failure to meet eligibility requirements or to provide all requested information and/or documentation may result in an application's denial. Carriers are subject to monetary penalties and possible revocation of the VWP if provisions are not met. **Applications should be sent to: U.S. Customs & Border Protection, Fines, Penalties & Forfeitures Division, 1300 Pennsylvania Avenue, N.W., Room 5.5C, Washington, D.C. 20229.**

8 CFR Part 217 – Visa Waiver Program

Sec. 217.1 Scope. (Section revised effective 4/1/1997, 62 FR 10312)

Sec. 217.2 Eligibility. (Section revised effective 4/1/1997, 62 FR 10312)

Sec. 217.3 Maintenance of status. (Section revised effective 4/1/1997, 62 FR 10312)

Sec. 217.4 Inadmissibility and deportability. (Section heading revised effective 4/1/1997, 62 FR 10312)

Sec. 217.5 Reserved (Section removed and reserved effective 4/1/1997, 62 FR 10312)

Sec. 217.6 Carrier agreements. (Section revised effective 4/1/1997, 62 FR 10312)

Sec. 217.7 Electronic data transmission requirement. (Section added effective 10/11/2002, 67 FR 63246 and 63249; revised 4/7/2005, 70 FR 17820 and 17848)

Sec. 217.1 Scope.

The Visa Waiver Program (VWP) described in this section is established pursuant to the provisions of section 217 of the Act.

Sec. 217.2 Eligibility.

(a) Definitions. As used in this part, the term:

Carrier refers to the owner, charterer, lessee, or authorized agent of any commercial vessel or commercial aircraft engaged in transporting passengers to the United States from a foreign place.

Designated country refers to Andorra, Australia, Austria, Belgium, Brunei, Denmark, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Liechtenstein, Luxembourg, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovenia, Spain, Sweden, Switzerland, and the United Kingdom. The United Kingdom refers only to British citizens who have the unrestricted right of permanent abode in the United Kingdom (England, Scotland, Wales, Northern Ireland, the Channel Islands and the Isle of Man); it does not refer to British overseas citizens, British dependent territories' citizens, or citizens of British Commonwealth countries.

Round trip ticket means any return trip transportation ticket in the name of an arriving Visa Waiver Program applicant on a participating carrier valid for at least 1 year, electronic ticket record, airline employee passes indicating return passage, individual vouchers for return passage, group vouchers for return passage for charter flights, and military travel orders which include military dependents for return to duty stations outside the United States on U.S. military flights. A period of validity of 1 year need not be reflected on the ticket itself, provided that the carrier agrees that it will honor the return portion of the ticket at any time, as provided in CBP Form I-775, Visa Waiver Program Agreement.

(b) Special program requirements. (1) General. In addition to meeting all of the requirements for the Visa Waiver Program specified in section 217 of the Act, each applicant must possess a valid, unexpired passport¹ issued by a designated country and present a completed, signed Form I-94W, Nonimmigrant Visa Waiver Arrival/Departure Form.

(2) Persons previously removed as deportable aliens. Aliens who have been deported or removed from the United States, after having been determined deportable, require the consent of the

¹ Pursuant to 8 U.S.C. 1732(c)(1) after October 26, 2004, all aliens applying for admission under the Visa Waiver Program must possess a valid unexpired machine-readable passport to enter the United States.

Attorney General to apply for admission to the United States pursuant to section 212(a)(9)(A)(iii) of the Act. Such persons may not be admitted to the United States under the provisions of this part notwithstanding the fact that the required consent of the Attorney General may have been secured. Such aliens must secure a visa in order to be admitted to the United States as nonimmigrants, unless otherwise exempt.

(c) Restrictions on manner of arrival. (1) Applicants arriving by air and sea. Applicants must arrive on a carrier that is signatory to a Visa Waiver Program Agreement and at the time of arrival must have a round trip ticket that will transport the traveler out of the United States to any other foreign port or place as long as the trip does not terminate in contiguous territory or an adjacent island; except that the round trip ticket may transport the traveler to contiguous territory or an adjacent island, if the traveler is a resident of the country of destination.

(2) Applicants arriving at land border ports-of-entry. Any Visa Waiver Program applicant arriving at a land border port-of-entry must provide evidence to the immigration officer of financial solvency and a domicile abroad to which the applicant intends to return. An applicant arriving at a land-border port-of-entry will be charged a fee as prescribed in § 103.7(b)(1) of this chapter for issuance of Form I-94W, Nonimmigrant Visa Waiver Arrival/Departure Form. A round-trip transportation ticket is not required of applicants at land border ports-of-entry.

(d) Aliens in transit. An alien who is in transit through the United States is eligible to apply for admission under the Visa Waiver Program, provided the applicant meets all other program requirements.

Sec. 217.3 Maintenance of status.

(a) Satisfactory departure. If an emergency prevents an alien admitted under this part from departing from the United States within his or her period of authorized stay, the district director having jurisdiction over the place of the alien's temporary stay may, in his or her discretion, grant a period of satisfactory departure not to exceed 30 days. If departure is accomplished during that period, the alien is to be regarded as having satisfactorily accomplished the visit without overstaying the allotted time.

(b) Readmission after departure to contiguous territory or adjacent island. An alien admitted to the United States under this part may be readmitted to the United States after a departure to foreign contiguous territory or adjacent island for the balance of his or her original Visa Waiver Program admission period if he or she is otherwise admissible and meets all the conditions of this part with the exception of arrival on a signatory carrier.

Sec. 217.4 Inadmissibility and deportability.

(a) Determinations of inadmissibility.

(1) An alien who applies for admission under the provisions of section 217 of the Act, who is determined by an immigration officer not to be eligible for admission under that section or to be inadmissible to the United States under one or more of the grounds of inadmissibility listed in section 212 of the Act (other than for lack of a visa), or who is in possession of and presents fraudulent or counterfeit travel documents, will be refused admission into the United States and removed. Such refusal and removal shall be made at the level of the port director or officer-in-charge, or an officer acting in that capacity, and shall be effected without referral of the alien to an immigration judge for further inquiry, examination, or hearing, except that an alien who presents himself or herself as an applicant for admission under section 217 of the Act, who applies for asylum in the United States must be issued a Form I-863, Notice of Referral to Immigration Judge, for a proceeding in accordance with § 208.2(b)(1) and (2) of this chapter. (Paragraph (a)(1) revised effective 4/1/97; 62 FR 10312)

(2) The removal of an alien under this section may be deferred if the alien is paroled into the custody of a Federal, State, or local law enforcement agency for criminal prosecution or punishment. This section in no way diminishes the discretionary authority of the Attorney General enumerated in section 212(d) of the Act.

(3) Refusal of admission under paragraph (a)(1) of this section shall not constitute removal for purposes of the Act. (Paragraph (a)(3) added effective 4/1/97; 62 FR 10312)

(b) Determination of deportability. (1) An alien who has been admitted to the United States under the provisions of section 217 of the Act and of this part who is determined by an immigration officer to be deportable from the United States under one or more of the grounds of deportability listed in section 237 of the Act shall be removed from the United States to his or her country of nationality or last residence. Such removal shall be determined by the district director who has jurisdiction over the place where the alien is found, and shall be effected without referral of the alien to an immigration judge for a determination of deportability, except that an alien admitted as a Visa Waiver Program visitor who applies for asylum in the United States must be issued a Form I-863 for a proceeding in accordance with § 208.2(b)(1) and (2) of this chapter.

(2) Removal by the district director under paragraph (b)(1) of this section is equivalent in all respects and has the same consequences as removal after proceedings conducted under section 240 of the Act.

(c)(1) Removal of inadmissible aliens who arrived by air or sea. Removal of an alien from the United States under this section may be effected using the return portion of the round trip passage presented by the alien at the time of entry to the United States as required by section 217(a)(7) of the Act. Such removal shall be on the first available means of transportation to the alien's point of embarkation to the United States. Nothing in this part absolves the carrier of the responsibility to remove any inadmissible or deportable alien at carrier expense, as provided in the carrier agreement.

(2) Removal of inadmissible and deportable aliens who arrived at land border ports-of-entry. Removal under this section will be by the first available means of transportation deemed appropriate by the district director.

Sec. 217.5 [Reserved]

Sec. 217.6 Carrier agreements.

(a) General. The carrier agreements referred to in section 217(e) of the Act shall be made by the Commissioner on behalf of the Attorney General and shall be on Form I-775, Visa Waiver Program Agreement.

(b) Termination of agreements. The Commissioner, on behalf of the Attorney General, may terminate any carrier agreement under this part, with 5 days notice to a carrier, for the carrier's failure to meet the terms of such agreement. As a matter of discretion, the Commissioner may notify a carrier of the existence of a basis for termination of a carrier agreement under this part and allow the carrier a period not to exceed 15 days within which the carrier may bring itself into compliance with the terms of the carrier agreement. The agreement shall be subject to cancellation by either party for any reason upon 15 days' written notice to the other party.

Sec. 217.7 Electronic data transmission requirement.

(a) An alien who applies for admission under the provisions of section 217 of the Act after arriving via sea or air at a port of entry will not be admitted under the Visa Waiver Program unless an appropriate

official of the carrier transporting the alien electronically transmitted to Customs and Border Protection (CBP) passenger arrival manifest data relative to that alien passenger in accordance with 19 CFR 4.7b or 19 CFR 122.49a. Upon departure from the United States by sea or air of an alien admitted under the Visa Waiver Program, an appropriate official of the transporting carrier must electronically transmit to CBP departure manifest data relative to that alien passenger in accordance with 19 CFR 4.64 and 19 CFR 122.75.

(b) If a carrier fails to submit the required electronic arrival or departure manifests specified in paragraph (a) of this section, CBP will evaluate the carrier's compliance with immigration requirements as a whole. CBP will inform the carrier of any noncompliance and then may revoke any contract agreements between CBP and the carrier. The carrier may also be subject to fines for failure to comply with manifest requirements or other statutory provisions. CBP will also review each Visa Waiver Program applicant who applies for admission and, on a case-by-case basis, may authorize a waiver under current CBP policy and guidelines or deny the applicant admission into the United States.

I-94W: The "Green Form"

**Arrival Record:
Items 1-11 completed.**

**Departure Record:
Items 14-17 completed.**

All Questions Answered by Alien

Alien's Signature & Date

Front

Reverse

Reverse of I-94W Departure Record

Departure Information provided by Carrier before submission to INS.

Port: TAMPA
Date: 28 NOVEMBER 1997
Carrier: ABC AIRLINES
Flight #/Ship Name: XX 222

The green I-94W should be used only by carriers who are signatory to the Visa Waiver Program (VWP). A nonimmigrant alien passenger must have a valid passport, be eligible by nationality for the VWP, and be coming to the United States for less than 90 days. The arrival carrier must ensure that Items 1 through 11 on the Arrival Record (upper portion) and Items 14 through 17 on the Departure Record (lower portion) are completed IN CAPITAL LETTERS, as shown in the example on the far left. The carrier must also ensure that the passenger has answered all questions and signed the appropriate blank on the reverse of the arrival record, as shown in the example on the near left. In the course of inspecting the passenger, CBP officer will place an admission stamp in the upper right corner of the arrival record and another in the upper right corner of the departure record. The officer will retain the arrival record and return the departure record to the passenger.

The passenger must keep the departure record until he or she is departing the United States. The carrier responsible for the passenger's departure must have this document in order to process any VWP visitor for departure from the United States. After the alien has departed, the carrier must:

- Record the actual departure information (port, date, carrier, flight number/vessel name) on the reverse of the form, and
- Submit the form to CBP at the port of departure within 48 hours of the passenger's departure.

If a Departing Passenger Has Lost or Misplaced His Departure Record:

If a nonimmigrant visa holder is checking in for departure from the United States and is not in possession of his I-94 Departure Record, the departure carrier must create a replacement Departure Record. To do so, the carrier must simply a) take a blank I-94 Departure Record; b) cross through the 11-digit number in the upper left corner of the form; c) write "ORIGINAL LOST" in the upper right corner of the form (where the CBP admission stamp would normally appear); and d) complete the remainder of the form.

I-94W Printing Specifications

Title: Visa Waiver Arrival/Departure Record

Form Number: I-94W

Edition Date: 05/29/91

OMB Approval Number: 1115-0148

Trim Size: 4 ¼ inches x 11 inches

Perforations: Horizontal 558, 750 points from top, easy-tear, 7 per inch

Paper stock: 90 pounds light green index, short grain

Inks: Standard black

Number: Farrington 7B Font with an unweighted Mod 11 DSR Check Digit in position nine. Number will be determined upon request for number assignment. Base line of admission number is to be 24 points below "Admission Number" on the top part of the form, and 24 points below "Departure Number" on the bottom part of the form. Scan readable by Scan Optics Model 553.

Printer Identification: If used, should appear at the bottom of the reverse side of the form, in a type size not to exceed 6 points. No other changes or additions may be made to the form.

All airlines must obtain I-94W stock from CBP's National Finance Center. Requests should be made to Kevin Teagle at (317) 290-3149. The forms are free of charge, but the carrier must pay shipping.

**Form I-775:
Visa Waiver Program Carrier Agreement**

*Return two (2) original signed copies of this document to the Fines, Penalties & Forfeitures Branch,
along with information and documentation referenced on the cover page of this contract package*

DEPARTMENT OF HOMELAND SECURITY
U.S. Customs and Border Protection

OMB No. 1651-0110

VISA WAIVER CARRIER AGREEMENT

AGREEMENT

between

(Name of Carrier)

A Carrier operating between foreign territory and the United States of America
and

The United States of America
Entered into pursuant to Sections 102 and 217
Immigration and Nationality Act

WHEREAS, Section 217 of the Immigration and Nationality Act of 1952, as amended, [Section 1187 of Title 8, United States Code] authorizes the establishment of a Visa Waiver Program and requires agreements between carriers and the Attorney General, on behalf of the United States of America, in conjunction with the transport of certain nonimmigrant visitors to the United States and the waiver of the requirement of nonimmigrant visas for the admission of such nonimmigrant visitors into the United States under a Visa Waiver Program;

WHEREAS, The attorney General and the Secretary of State have established a Visa Waiver Program pursuant to Section 217 of the Immigration and Nationality Act of 1952, as amended;

1. The carrier will not transport to the United States any alien for admission as a nonimmigrant visitor under the Visa Waiver Program unless such alien: (a) is a national of and in possession of a valid passport issued by a country listed in Section 217.5 of Title 8 of the Code of Federal Regulations; (b) has been provided with a Visa Waiver Information Form; (c) seeks admission into the United States for ninety (90) days or less; (d) has a roundtrip, nontransferable, nonrefundable ticket (except in the country of issuance or nationality or residence of the alien), that is valid for one year for purposes of deportation or exclusion, issued by a carrier signatory on CBP Form I-775, Visa Waiver Carrier Agreement, or by authorized agents who are sub-contractors to such a carrier, and guaranteeing transportation from the United States; (e) agrees that the return portion of such ticket may be used to effect his or her removal from the United States based on a finding of excludability or deportability under 8CFR 217.4; (f) appears otherwise admissible to the United States.

2. The carrier will unconditionally honor and transport from the United States any alien presenting a ticket as set forth in subparagraph (d) of paragraph 1 of this Agreement and 8 CFR 231.

3. The carrier will issue only tickets that are roundtrip, nontransferable, nonrefundable (except in the country of issuance or nationality or residence of the alien), that is valid for one year for purposes of deportation and exclusion, and guaranteeing transportation from the United States to aliens seeking transportation to and admission into the United States under the Visa Waiver Program;

4. At the time of departure from the United States, the carrier will lift the CBP Form I-94W, Nonimmigrant Visa Waiver Arrival/Departure Record of all departing passengers who were admitted to the United States under the Visa Waiver Program will annotate the required departure data on each CBP Form I-94W; and will submit the collected CBP Form I-94W daily to Customs and Border Protection at the place of departure.

5. The carrier will remove from the United States (on the first available means of transportation to the alien's point of departure to the United States) any alien transported by the carrier to the United States for admission under the Visa Waiver Program in the event that the alien is determined by a CBP officer to have remained unlawfully in the United States beyond the 90-day period of admission under the Visa Waiver Program. The carrier will carry out the responsibilities under this paragraph in a manner that does not impose on the U.S. expenses related to the transportation of such alien from the point of arrival in the United States.

CBP Form I-775 (12/06)

6. The carrier will reimburse within 30 days of notice (not pay as a penalty) Customs and Border Protection for any and all costs and expenses incurred in the transportation (from the point of arrival in the United States) of an alien described in paragraph 5 of this Agreement in the event that the carrier fails to abide by said paragraph 5.
7. U.S. Customs and Border Protection will notify the carrier as quickly as possible and with 24 hours following a determination that an alien is to be removed from the United States under paragraph 5 of this Agreement.
8. The initial transporting carrier is not relieved of any obligations or responsibilities should an alien admitted under the Visa Waiver Program depart temporarily for a visit to foreign contiguous territory or an adjacent island during his or her visit to the U.S. under the program.
9. This Agreement cancels and supercedes any prior agreements between the parties hereto with respect to the subject matter but does not alter or affect any rights and liabilities already accrued under any prior agreements between the parties.
10. This Agreement is subject to termination by the Commissioner on five (5) days notice in writing for failure of the carrier to abide by the provisions of this agreement, but such termination shall neither alter nor affect any liabilities or responsibilities of the carrier that have already accrued under this Agreement.
11. This Agreement shall be subject to cancellation by either party for any reason upon fifteen days' notice in writing to the other party, but such cancellation shall not terminate any rights or liabilities already accrued under this Agreement.
12. This Agreement shall be effective upon the date of execution hereof by the Commissioner.

Signed this ____ day of _____ 20__

Signed this ____ day of _____ 20__

At: _____

At: _____

United States of America

(Name of Transportation Line)

(Address of Transportation Line)

By: _____

By: _____

(Signature)

Commissioner
U.S. Customs and Border Protection

(Printed Name)

(Title)

Public reporting burden for this collection of information is estimated to average 2 hours. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, Washington, DC 20229; and to the Office of Management and Budget, Paperwork Reduction Project: OMB No. 1651-0110, Washington DC 20503.

CBP Form I-775 (12/06)