Social media vetting: What's Form DS-5535 and how will it impact U.S. visa applicants?

By **Jayshal Sood** | July 3, 2017

Prominent immigration attorney Susan Cohen explains the new visa protocol, Form DS-5535.

The newly introduced social media vetting Form DS -5535 requires those seeking US visas to complete a questionnaire providing all their social media accounts and email addresses for the past five years, along with 15 years of detailed biographical history. Some say applicants might be denied visas because of even honest mistakes.

In an interview with the American Bazaar, Susan Cohen, an immigration attorney at prominent law firm Mintz Levin, talks about the Form DS-5535, and how it affects visa applicants.

Cohen, who has more than two decades of experience in immigration-related issues, is the founder and Chair of the firm's immigration practice. An active member of the American Immigration Lawyers Association, Cohen has lead several of AILA's committees. Her work has been honored by several prestigious institutions including the Supreme Judicial Court of Massachusetts, the Political Asylum/Immigration Representation (PAIR) Project, the Irish International Immigrant Center and Massachusetts Lawyers Weekly.

Tell us about this form Supplemental questions for visa applicants or Form DS-5535. What is it and to whom does it apply?

This is a form that Consular Officers at Consular Posts throughout the world will provide to certain nonimmigrant and immigrant visa applicants "who have been determined to warrant additional scrutiny in connection with terrorism or other national security-related visa ineligibilities". There is no published profile of a typical visa applicant who should expect to be given this. Officers will use their discretion to request visa applicants to complete this additional form, based on information the visa applicant has provided to the officer either in his or her standard visa application form, or verbally during the visa interview. They may hand the form to a visa applicant while the applicant is standing at the window in front of the officer or they could also send the form to visa applicants to complete after an initial interview, based on information that has been returned in a government background check. The Department of State, in issuing the form, indicated that it believes that no more than .05 percent of all visa applicants (65,000 applicants a year) will be expected to complete this new form.

The form asks for:

Travel History during the last 15 years, including the source of funding for travel;

Address history during the last 15 years;

Employment history during the last 15 years;

Names and dates of birth of all siblings;

Names and dates of birth of all children;

Names and dates of birth for all current and former spouses, or civil or domestic partners;

Social media platforms and identifiers, also known as "handles" used during the last 5 years; and

Phone numbers and email addresses used during the last 5 years.

Is it the Donald Trump effect? Or, was it proposed earlier too?

This new Form DS-5535 is a direct result of a request made by President Trump to the agencies that deal with immigration (the Department of State; the Department of Homeland Security and the Attorney General's office) to implement additional protocols and procedures to improve and expand on the collection of information before granting any immigration benefits.

Can we look at it as an offshoot of the travel ban?

Yes, the above-referenced request by President Trump stems directly from the Executive Order that contained the travel ban.

How does it affect travelers from India, especially students?

Students are often highly engaged in social media. Inevitably there will be some Indian students who will receive this form and will have to complete it if they want a chance to receive a visa to the U.S. It remains to be seen how Consular officers will treat visa applications of students who simply cannot remember all the information the form requests and therefore cannot complete it in its entirety, or how officers will treat the applicants if

they accidentally leave off an email address or another detail, that is later discovered by the Consular Officer.

How equipped are the immigration authorities to implement this mandatory requirement?

This remains to be seen. Reviewing the information on this additional form and the follow-up work required (checking out social media sites and messages and comments posted by visa applicants) will add time to the visa adjudication process. It is highly likely to slow down the visa adjudication process. Indeed, the Trump Administration recently amended a directive from the Obama Administration to DOS to strive to adjudicate 80% of all visa applications within no more than 3 weeks. This time frame is no longer an official U.S. policy goal, underscoring the attitude towards the visa application process of the current administration.

Is it feasible to do a background check for every visa aspirant?

Every visa applicant will not be given this additional form, but every visa applicant undergoes a background check before being issued a visa.

Which agency would actually do the background research – for instance, the USCIS in the US or the embassies or consulates in India?

The expectation is that the research will be performed by Consular Officers at the Consulates and Embassies in India.

Is there something to read between the lines? Is it really for an applicant's scrutiny as perhaps the US is the first country in the world to introduce such a requirement?

The Trump administration has expressed great concern about the threat of terrorism and acts of violence by immigrants to the U.S. It is fair to say this administration is not particularly friendly towards immigrants, to put it mildly. The administration is adopting many hard line immigration policies and practices.

How would this affect the US economy?

It remains to be seen what impact this new extreme vetting will have on the U.S. economy. It is highly likely that fewer visa applicants will be approved than previously and depending on the numbers, these measures could potentially negatively impact the U.S. economy. It is also likely that a certain percentage of people will forego applying for a U.S. visa rather than have to deal with the extra scrutiny that could potentially come with a visa application. Only time will shed light on the impact on the U.S. economy. We will have to wait and review the data after a period of time has passed.

From the security point-of-view, how effective, in your opinion, would this new requirement be?

Many people have made the argument that many immigrants to the U.S. who have committed crimes or acts of terrorism, have been radicalized after they arrived in the U.S., not before. It is unclear how effective this new form will be in preventing dangerous persons from receiving visas to enter the U.S.