

9 FAM 41.11 PROCEDURAL NOTES

*(CT:VISA-803; 04-27-2006)
(Office of Origin: CA/VO/L/R)*

9 FAM 41.11 PN1 MAINTENANCE OF STATUS AND DEPARTURE BONDS

9 FAM 41.11 PN1.1 Bonds Should Rarely Be Used

(CT:VISA-803; 04-27-2006)

- a. Although *22 CFR 41.11(b)(2)* permits consular officers, in certain cases, to require a maintenance of status and departure bond, it is Department policy that such bonds will rarely, if ever, be used. The mechanics of posting, processing and discharging a bond are cumbersome, and many Department of Homeland Security (DHS) offices are reluctant to accept them. In addition, the nature of the bond can often lead to misunderstanding and confusion, especially in countries where surety bonds are uncommon. The result can be a public misperception that the consular officer has actually requested a bribe in order to issue the visa.
- b. Bonds are not effective guarantees of departure. In an era when some potential migrants are willing to pay thousands of dollars for false documents or smugglers' services, possible forfeiture of a bond is little deterrence, and sometimes might be cheaper than other means of illegal entry. If an applicant is likely to violate status or fail to return to his or her residence abroad, the officer should refuse the visa under INA 214(b).

9 FAM 41.11 PN1.2 Department Approval Required in Bond Cases

(TL:VISA-171; 10-15-1997)

Consular officers must obtain approval from the Department (CA/VO/F/P) before requesting that an applicant post a maintenance of status and departure bond.

9 FAM 41.11 PN1.3 Notification to Applicant

(CT:VISA-803; 04-27-2006)

When a bond is to be required of an applicant for a B or F visa, the consular officer must notify the applicant in writing of the requirement, and specify both the classification of the visa under consideration and the exact amount of the bond required. This notification must also include the applicant's full name, nationality, date of birth, and country of birth. If a bond is to be required of more than one member of a family group, the consular officer's notification must include all of the foregoing information for each person for whom a bond is to be required. The amount of the bond for each person is to be specified. The applicant, (or the applicant's representative in the United States), is to be instructed to submit the original, or a copy of the consular officer's written notification to *the* DHS as explained in 9 FAM 41.11 PN1.3 and 9 FAM 41.11 PN1.4.

9 FAM 41.11 PN1.4 Form of Collateral

(TL:VISA-610; 03-31-2004)

A bond may be posted in the form of cash (U.S. currency only), U.S. Treasury Bonds or Notes, or an international or domestic postal money order made payable to the "Department of Homeland Security" (DHS) in U.S. dollars. U.S. Savings Bonds are not acceptable for this purpose.

9 FAM 41.11 PN1.5 Posting of Bond by Applicant

(TL:VISA-610; 03-31-2004)

- a. An applicant who wishes to post the bond personally may write directly to the appropriate DHS district director, enclosing the notification from the consular officer. Upon receipt of such a request, the district director prepares Form I-352, Immigration Bond, in duplicate, and transmits it to the applicant for signature. The applicant should sign the form at the consular office in the presence of two national employees as witnesses. The applicant must also execute the block captioned "PLEDGE AND POWER OF ATTORNEY FOR USE WHEN CASH IS DEPOSITED AS SECURITY." The consular officer must witness the execution of this block and affix the consular seal. The consular officer must then return Form I-352 to the appropriate DHS district director.
- b. If the applicant will post the bond personally, but does not have, or does not desire to obligate the full amount required, he or she may also consult a foreign insurance or indemnity company to have the bond

posted by an approved surety company in the United States. In this case, the consular officer's notification is to be sent to the surety company for presentation to the appropriate DHS district director. A representative of the surety company will complete Form I-352.

9 FAM 41.11 PN1.6 Posting of Bond by Interested Person in the United States

(TL:VISA-610; 03-31-2004)

If the applicant has a friend, relative, or other interested person in the United States who is prepared to post the bond, the applicant should send the consular officer's notification to that person for presentation to the DHS district director.

9 FAM 41.11 PN1.7 Cancellation of Bond After Issuance of Visa

(TL:VISA-610; 03-31-2004)

If an interested person in the United States has posted a bond on behalf of an applicant and subsequently seeks to withdraw or cancel the bond before the applicant departs for the United States, the DHS district director will direct the interested person to have the applicant visit the consular office for cancellation of his or her visa. Upon cancellation of the visa, the consular officer should inform the district director of the visa cancellation so that the bond may be canceled and the collateral returned to the interested person.

9 FAM 41.11 PN1.8 Cancellation of Bond After Applicant's Departure from the United States

(TL:VISA-610; 03-31-2004)

In some cases in which DHS has no record of the departure of an applicant for whom a bond was posted, the district director may request that the applicant appear before a consular officer abroad to verify that he or she has, in fact, returned to a foreign country. In these cases, the officer should confirm to the district director that the applicant has departed the United States, and should furnish the date of departure as stated by the applicant, and indicate any confirming data that would serve to verify that date.

9 FAM 41.11 PN1.9 Notations to be Placed in Visa

Issued to Applicant for Whom Bond Posted

(CT:VISA-803; 04-27-2006)

See *9 FAM 41.113 PN11.3*.