

HOW TO BRING YOUR FIANCÉE, WIFE OR GIRLFRIEND TO THE UNITED STATES

by Kseniya Zavala, Esq.

You have finally found your soul-mate, and you are ready to move forward. You want to introduce your loved one to your family and friends, to show her your home town, to get engaged or get married, have kids and live happily ever after. The only question is, How do you get started?

There are various kinds of immigrant and non-immigrant visas available for visitors to the United States. We are going to discuss three options available for girlfriends, fiancées and wives of U.S. citizens.

B2 VISITOR FOR PLEASURE (tourist visa)

The easiest and fastest visa is the B2 visitor for pleasure or, the so called “tourist visa.” This visa is designed for tourists and guests who wish to briefly visit the United States. You should use this visa if you want to invite your love one to visit you in the United States for a short period of time not to exceed 6 months so that you can introduce her to your family and friends. You should keep in mind, however, that the person you invite must leave the U.S. before her authorized stay expires. She may not study or work while on a B2 visa. You are also not supposed to get married, especially within 60 days of her arrival, to avoid accusations of committing fraud when applied for the B2. If you believe you may want to get married, and you want your fiancée to stay in the U.S., then you should apply for a K1 fiancée visa, and not for B2. If you are already engaged, you should also choose the K1 option.

The **application process** for B2 visas is fairly simple:

First of all, you should write a letter of invitation addressed to your girlfriend and attach proof of your financial ability to support her while she is in the U.S. Bank account statements or copies of recent pay stubs showing that you are able to cover all her expenses are generally acceptable. Then you need to mail all this documentation to your invitee and also fax a copy directly to the embassy that has jurisdiction over her place of residence. If you do not want to disclose your financial information to your invitee, fax it to the embassy only and note on the letter of invitation that the documents were faxed to the embassy directly on such and such date. Make sure that your invitee has a copy of your invitation letter with a note.

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While you are doing this, your girlfriend should be busy putting together proof of her ties to her home country. It may seem obvious that people are tied to their home countries, but by default all visa seekers are considered to be potential immigrants and must rebut this presumption by showing that they have no intention of abandoning their home. Suitable proof includes, but is not limited to: a letter from her employer stating that she is currently employed, documents showing property ownership, lease or rental agreement, and documents showing close relatives left behind, such as parents, brothers, sisters, children, etc.

After all the proper documents are gathered together, your girlfriend should make an appointment with the local U.S. consular section and fill out the DS-156 form provided by the embassy. At the interview she will be asked simple questions about both of you, the purpose of her trip, her intentions, etc. Usually it takes only a couple of days to get a decision on a B2, but in some countries it may take up to a month.

Please note that every visa and grant of entry to the U.S. is a discretionary benefit. This means that the consular officer and the border patrol have the right to deny a visa or entry to anybody for whatever reason, or even without a reason. There is no appeal of such denials. Single Eastern-European girls are under higher scrutiny as they are all presumed to travel for one purpose only – to get married and immigrate to the U.S.

TIPS:

1. Write the letter of invitation not just in your own name but from your whole family and let your close relatives sign it together with you.
2. Plan a short visit, not to exceed three months. The shorter the planned visit, the better chance your girlfriend will have of obtaining a visa and passing through border controls.
3. Book a round-trip ticket or purchase a **fully refundable** round-trip ticket before the consular interview, so your invitee can show an itinerary demonstrating her intention to leave the U.S.
4. Make sure your invitee understands that she is only visiting you for a brief period of time and will return back to her home country before the expiration of her authorized stay.
5. Apply for a visa **at least** two months before her scheduled visit.
6. If your financial means allow, consult an immigration attorney about your case and let the immigration attorney compose a letter of invitation for you and prepare your girlfriend for her interview.

K1 FIANCÉE VISA

If you are considering the possibility of marriage, the K1 visa is usually the best choice for bringing your fiancée to the United States. This visa allows your fiancée to visit you in the U.S. for up to 90 days. Before 90 days expire you must either get married and file

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for her adjustment of status, or she must return to her home country. If things do not work out, you are not required to marry and you will not be precluded from seeking another fiancée visa in the future. If you do get married, make sure you file all the paperwork for adjustment of status **before** her K1 status expires. Otherwise, your fiancée will fall out of status, even if you got married within 90 days.

Immediately after her arrival, your fiancée may file for work authorization. However, in order to obtain a K1 visa you will have to show that you can financially support your fiancée regardless of her ability to work.

The current **criteria for K1** visa are the following:

1. You are a U.S. citizen.
2. You have met your fiancée in person within the past two years. There is an exception when such a meeting violates customary norms or creates an extreme hardship to the U.S. citizen, but such waivers are rarely granted.
3. You and your fiancée are eligible and free to marry, meaning that you both are over 18, and all previous marriages were dissolved or annulled.
4. You both seriously intend to get married within 90 days of her arrival.
5. Your fiancée is not inadmissible to the U.S.

The most common **inadmissibility grounds** are the following:

1. Fiancée was previously in the U.S. and failed to maintain lawful status or overstayed her visa.
2. Fiancée has a criminal record
3. Fiancée has a serious contagious illness, such as AIDS or tuberculosis.
4. Fiancée commits misrepresentation during the interview, or shows a document that is deemed to be fraudulent.

It is possible to obtain a waiver of inadmissibility. Also not all crimes, diseases or failures to maintain a lawful status create inadmissibility problem. If you believe that any of the grounds of inadmissibility may apply to you, then we recommend that you consult an attorney on this issue.

The **application procedure** for K1 visa:

The Petitioner must first submit an application to the USCIS with supporting documentation demonstrating the eligibility of the petitioner and his fiancée for K1 status. The waiting time for approval of such petitions can be up to 7 months, depending on the backlogs of similar petitions in the USCIS. The case can be further delayed by any error in the petition, or by a Request for Additional Evidence issued by USCIS.

Once the petition is approved, the case is transferred to the National Visa Center which in turn forwards the case to the U.S. consulate having jurisdiction over the fiancée's place of

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residence. She will be instructed to undergo a medical examination in a designated clinic and to appear at the Consulate for an interview. If she submits all the required evidence and there is no problem at the interview, the visa will be then issued to your fiancée and she will be able to travel to the United States immediately.

TIPS:

1. Before applying for a fiancée visa, visit your loved one in her home country for at least several weeks, get acquainted with her family and friends. Make sure you document your trip by taking pictures and keeping records.
2. Keep copies of all correspondence, phone bills, receipts etc.
3. If your income is not very high, try to save some money to show your ability to financially support your fiancée.
4. Sponsor intensive English language classes for your fiancée. It is crucial that she speaks at least basic English.
5. If your fiancée has a child that she would like to bring to the U.S. with her, find out if the child's father would permit the child to leave the country before you file for a visa.
6. To minimize the risk of errors in the application, to avoid the problem of missing documentation, and to ensure your peace of mind, hire an attorney to represent you and your fiancée, or at least obtain a consultation from an attorney who will review your forms and documentation before filing. You do not have to pay thousands of dollars for such services. There are attorneys who provide these services at a reasonable price. You can find more information in our *How to Pick an Immigration Attorney* section.
7. If you hire an attorney to handle your K1 visa, make sure this attorney also handles adjustment of status, work authorization, removal of condition petitions and other immigration work, as you will need to go through those processes within the next two years. A good attorney will keep in touch with you even after you obtain a visa, sending you letters with important reminders.

K3 SPOUSAL VISAS

K3 spousal visas are suitable for foreigners who are already married to U.S. citizens and are seeking entry to the U.S. for permanent residence. An immigrant visa petition (I-130) must first be filed by the U.S. citizen spouse on behalf of the foreign spouse. The couple must be legally married, in a bona fide marriage and all previous marriages must have been legally dissolved. The procedure and the time frame is very similar to the K1 described above. In the alternative, you may skip the K3 visa process and file directly for an immigrant visa instead. This process is more time consuming, but it allows you to avoid the adjustment of status procedure later on. You may wish to consult an immigration attorney to find out which process will be better to follow in your particular situation.

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CURRENT FEES & PROCESSING TIME: B2, K1, K3

Please note that if you decide to hire an attorney you will be also responsible for attorney's fees in addition to the filing fees. Also, the USCIS has announced a possible substantial filing fee increase in the near future.

	Current Filing Fees	Approximate Processing Times
B2	\$100 for visa	2 days-1 month
K1	\$170 for I-129F Apprx. \$100 for medical exam (prices vary) \$100 for visa \$395 for Adjustment of status \$180 for work authorization (optional) \$170 for travel document (optional)	Up to 6-9 months Anywhere between 3 and 18 months depending on backlogs in your jurisdiction
K3	\$170 for I-129F \$190 for I-130 Apprx. \$100 for medical exam (prices vary) \$100 for visa \$395 for Adjustment of status \$180 for work authorization (optional) \$170 for travel document (optional)	Up to 7-10 months Anywhere between 3 and 18 months depending on backlogs in your jurisdiction

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HOW TO AVOID SCAM REQUESTS

There are hundreds of stories on the internet about Russian and Ukrainian girls that scam Western men, trying to make them pay for their visas and travel expenses. You only need to know some basic information about the visa process and costs in order to easily avoid such scams.

First of all, non-immigrant visas to the United States currently cost only \$100. It is true that this fee must be paid in cash at the time of the filing of the visa application. However, if your foreign girlfriend tells you that her visa costs more than \$100, you should be suspicious. Try to contact the local consular section to find out if there has been a recent fee increase. If you apply for a fiancée visa, she will have to undergo a medical examination that may cost between \$100-200. All other immigration fees will be paid by you here, in the United States, at the time of filing petitions/applications.

Second, it is not true that the airfare must be purchased before the interview at the embassy. This is not necessary. However, when applying for a B2 tourist visa, you may wish to book a ticket or purchase a fully refundable round-trip ticket in order to help demonstrate your girlfriend's intention to leave the U.S. It is true that local Russian travel agencies may only accept cash. If your girlfriend asks for money in order to buy an airplane ticket, you may be better off purchasing a refundable ticket for her in the United States. There are many travel agencies that will offer flights to and from all parts of Russia.

Third, if you decide that you want to meet your girlfriend in person, offer to visit her in Russia instead of sponsoring her visit to the United States. Make sure she introduces you to her family and friends.

DO I NEED AN IMMIGRATION ATTORNEY?

The simple answer is, No, you do not *need* an attorney, in the same way as you do not *need* a mechanic each time there is something wrong with your car. If you have the skills, time and desire, you may fix your car, or file your immigration papers, without any assistance. It is entirely possible to go through the whole immigration process on your own and succeed, if you have enough education and time to read and understand hundreds of pages of immigration statutes, manuals, regulations and memoranda, and to monitor current updates. You may download all the necessary forms and instructions for free, fill them out and file with the appropriate agency. It is strongly recommended, however, that you at least consult an attorney before filing your forms to make sure that everything you have done is still up to date.

While applying for a visa may appear to be fairly simple, you should realize that immigration law is not just about filing forms. Immigration law is a complex body of various rules and norms, and it is important to see the bigger picture above beyond visa requirements. At some point, you will have to make legal decisions regarding what process you should follow and what visa is right for you and your particular situation. It does not help to get a visa, if your fiancée may not adjust status afterwards. There is no need to spend hundreds of dollars in filing fees and wait for months for a fiancée visa if your fiancée has to travel back home for work or to finish her education.

Furthermore, obtaining a visa is only the beginning of the process. You will have to deal with immigration authorities regularly for the next several years. Adjustment of status, removal of condition, naturalization, even the simple mandatory change of address for immigrants may result in a range of sanctions, up to deportation, if are not timely processed.

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HOW TO PICK AN IMMIGRATION ATTORNEY

Immigration law is a federal matter and therefore attorneys licensed to practice law in one particular state may practice immigration law in all 50 states. This means that you do not have to hire an attorney just because his office is across the street. Modern offices are well-equipped for work at a long distance. Fax, e-mail and FedEx can effectively eliminate any need to hire a local attorney. Attorney's fees vary considerably because of the different overhead costs associated with running a law office in New York City as compared to Richmond, Virginia. The same quality services for K1 visas vary anywhere from \$600 to \$2500 or even higher depending on the location.

Do not judge the quality of the work of the law office by the price it charges. Cheaper is not necessarily worse, and more expensive is not always better.

Consider the following factors when you hire an attorney:

1. Is the attorney you are about to hire a member of the American Immigration Lawyers Association (AILA)? AILA is a very respected national association of immigration lawyers. Responsible immigration lawyers become AILA members in order to have access to comprehensive up-to date immigration law resources.
2. Who is going to be responsible for your case: an attorney or a paralegal? There is nothing wrong with having a paralegal working on your case, as long as such work is closely supervised by a licensed attorney. Unfortunately, in the modern world you may often find immigration law firms where a single attorney works with 5-10 paralegals and may not be deeply involved in your particular case.
3. Does the attorney make sure that you understand the fee agreement and the scope of representation before he/she starts working on your case? A responsible attorney will give you a written fee agreement to read and sign before starting work on your case.
4. Does the attorney, or legal assistant, return your phone calls or answer your e-mail inquiries regularly? It is true that most attorneys are extremely busy during the day. However, if you have to call the office every day for weeks, and the attorney cannot find time to return your phone call, it may be a sign that he/she is handling too many cases at the moment, and will not pay due attention to your case.
5. Will you be charged a flat fee or an hourly rate? Most immigration attorneys charge a flat fee for standard services. Make sure you understand what is included in their flat fee. Ask your attorney if you have to pay taxes, mailing, copying, translation, filing and other fees on top of their flat fee. Some attorneys will quote you a flat fee, and then will charge additional fees on top of it. Normally, all the

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fees must be described in the fee agreement. If the fee you are charged is not mentioned in your fee agreement, you should not pay such fee.

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FREQUENTLY ASKED QUESTIONS

Can I marry my fiancée overseas and still bring her on a K-1 or tourist visa?

No. If you are legally married, you need to file a relative petition I-130 and seek a spousal K-3 visa. She may not travel on a tourist visa, as tourist visas are only appropriate for those visitors who have no intention to abandon their home countries.

My fiancée is in the U.S. on a K-1 visa I obtained for her, but I'm not sure I'm ready to get married within 90 days. Can she extend her K-1 visa?

No. The K1 status may be neither extended nor changed to any other non-immigrant status. You must either get married, or your fiancée must leave the U.S. before her status expires.

I have recently met a lady online, but am unable to travel to her country. Is there anything I can do to avoid the requirement of meeting her in person?

You may try to obtain a tourist visa for your girlfriend, so she could visit you in the U.S. for a short period of time. After she returns home you may be able to file for a fiancée visa.

My fiancée was in the U.S. on a K visa, but our relationship didn't work out at the time and she returned to her home country. We kept in touch since then and now I would like to start the K-1 process again. Can I do that?

Yes. But if it has been less than two years of the first petition's approval, you should apply for a waiver under the International Marriage Broker Regulation Act. You should also demonstrate a strong intention to get married this time.

My fiancée has been denied a B1/B2 visitor visa for the U.S. before. Will that affect our current K-1 visa petition?

The mere fact that she was denied a visitor visa will not affect her chances, unless she misrepresented material facts during her B2 visa process and became inadmissible.

My income level is too low to qualify as a sponsor under the government's rules. Is there anything I can do about it?

Yes. You can find a co-sponsor who is able to meet all the government's financial and document requirements, and who will file an affidavit of support together with you.

My fiancée has been to the U.S. as a J-1 exchange student before and is subject to 2 year home residency requirement. Is there any chance to bring her to the U.S. on a K-1 fiancée visa without waiting until the above requirement is fulfilled?

Yes. It is possible to receive a waiver of the 2 year residency requirement. However, this is a very hard waiver to obtain.

My fiancée has overstayed her visa before. Is she eligible to come to the U.S. on the K-1 fiancée visa?

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It depends. If she overstayed her visa for less than 180 days, she is still admissible. If she overstayed for more than 180 days, she may not enter for the following three years. If she overstayed for more than a year, she may not enter the country for the next 10 years. Consult an attorney to determine if a waiver of inadmissibility is available for her.

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WHERE DO I FIND MORE INFORMATION?

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For forms, fees and general information about immigration law please visit www.uscis.gov.

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