



***Request for Accommodation by USCIS
In Response to the COVID-19 Pandemic
From the U.S. Cultural Sector***

League of American Orchestras & Tamizdat
January 29, 2021

Thousands of foreign entertainers and artists secured O and P visas prior to the COVID-19 pandemic, and many of those visas were rendered wholly or partially unusable by COVID-19 travel restrictions and event cancellations. Arts and cultural activity will be central to economic recovery efforts, as cultural events generate a ripple effect of travel, tourism, restaurant, and lodging economic activity. The legal and administrative costs of securing new visas for rescheduled events will cost the U.S. cultural sector as much as \$60,000,000, a sum that is untenable for a sector that has already been devastated by over a year of closures. At the same time, fully adjudicating approximately 12,000¹ I-129 petitions between June and December 2021 is a staggering demand for a Department already suffering from immense backlogs and understaffing.

The American cultural sector wishes to respectfully recommend that the USCIS adopt a “win/win” policy regarding a specific and limited set of already-approved I-129 petitions, which will allow the Service to greatly reduce its 2021 workload while saving the struggling U.S. cultural sector tens of millions of dollars.

Qualifying Petitions: The sector requests that USCIS make the accommodations available to the petitioners of I-129 petitions that:

- (1) sought O-1B, O-2, P-1B, P-2, P-3, P-1S, P-2S, or P-3S classifications;
- (2) were approved prior to August 31, 2020; and
- (3) have validity dates wholly or partially contained between the dates March 13, 2020 and December 31, 2020.

Accommodation: Under the accommodation, USCIS will reduce the I290B fee to \$250, and reopen qualifying petitions and reconsider an amendment of the petition’s applicable visa validity period if:

- (1) Petitioner duly files an I-290B “Motion To Reopen” no later than January 1, 2022;
- (2) With the I-290B the petitioner also submits:
 - (a) an I-797B Notice of Action showing an I-129 approval with precisely the same beneficiary or beneficiaries as the I-290B, and validity dates wholly or partially contained between the dates March 13, 2020 and December 30, 2020;

¹ This estimation is based on the number of I-129 O and P visas reported by USCIS as approved in 2020, with consideration given to estimated numbers of specific visa classifications (for example, O-1A versus O-1B) and durations (long term versus short term validity periods.)

- (b) a revised I-129 Page 5 reflecting the dates defining the new validity period sought;
 - (c) either (i) the union or peer group consultation initially included with the original I-129, if its issue date is no more than two years prior to the date of filing of the I-290B related to an O petition, or (ii) a new union or peer group consultation, covering the new employment; and
 - (d) new evidence of *bona fide* employment based on the requested dates in the newly submitted I-129 page 5 that meets the relevant USCIS standard for I-129 adjudication. For itinerary-based petitions, petitioner must also submit a new itinerary of engagements that meets the relevant USCIS standard for I-129 adjudication.
- (3) The beneficiary or beneficiaries needed for the new employment period are identical to those included in the initially filed petition;
 - (4) The validity period sought is no longer than what was sought in the initially filed petition; and
 - (5) No readily available preponderance of evidence indicates that the type of new employment is substantially dissimilar from the type of employment represented in the original I-129 petition.

Processing: The Service shall establish a unit within the O and P group that will process this limited set of I-290B forms, and this unit shall process these forms in the order that they were received in no more than six weeks, unless additional evidence is required.

USCIS shall not retrieve the previously approved I-129 petitions and supporting documentation prior to adjudication of the I-290B, and in the absence of a preponderance of readily available evidence to the contrary, shall defer to the prior adjudicating officer's evaluation of evidence submitted with the I-129 petition pursuant to establishing that:

- O-1B beneficiaries have extraordinary ability in the field of arts;
- P-1B beneficiaries are members of an internationally recognized entertainment group;
- P-2 beneficiaries are performing under a reciprocal exchange program that provides for the temporary exchange of artists and entertainers, or groups of artists and entertainers;
- P-3 beneficiaries are participants in a culturally unique program;
- O-2 beneficiaries have current essentiality, critical skills, and experience with the O-1 beneficiary, and substantial experience performing the critical skills and essential support services for the O-1; or
- P-1S, P-2S, or P-3S beneficiaries have prior essentiality, critical skills, and experience with the principal beneficiary(s).

In all other ways the processing of these I-290B forms will follow existing procedures.

Signed:

U.S. ORGANIZATIONS:

APAP/Association of Performing Arts Professionals
Arab American National Museum
Artistic Freedom Initiative
Arts Midwest
CEC ArtsLink
China Residencies
Dance Managers Collective
Dan McDaniel Management
Elsie Management
Folk Alliance International
High Concept Labs
KMP Artists
League of American Orchestras
Martinez Arts Consulting, ALC
NAPAMA/Association of North American Performing Agents and Managers
New York City Center
NITO: National Independent Talent Organization
NIVA: National Independent Venue Association
Portland Institute for Contemporary Art/PICA
Rhizome Arts Consulting
Taklit Artist & Concert Management, France
Tamizdat
Union of Musicians and Allied Workers

INTERNATIONAL ORGANIZATIONS

alba KULTUR, Germany
British Musicians' Union, United Kingdom
British Underground, United Kingdom
Canadian Arts Presenting Association (CAPACOA), Canada
Canadian Association of Stand-up Comedians, Canada
Canadian Live Music Association, Canada
Creo forbundet for kunst or kultur, Norway
Dutch Music Export, Netherlands
Entertainment Agents' Association, United Kingdom
FamGroup, Canada
5000 Ltd., United Kingdom
Music Managers Forum, United Kingdom
New Zealand Music Commission, New Zealand
On The Move, The Cultural Mobility Information Network, Belgium
Pearle* Live Performance Europe, Belgium
POP Montreal International Music Festival, Canada
Production Services Association, United Kingdom
PRS Foundation, United Kingdom
Sounds Australia, Australia
Taklit Artist & Concert Management, France