

Basic Requirements

Getting a visa to perform in the United States is a 4-step process:

- Obtain an advisory opinion from an appropriate labor organization;
- Get approval of a visa Petition for a Non-immigrant Worker (Form I-129) from USCIS;
- Attend at a U.S. Consulate to obtain the actual visa
- Enter the U.S. to perform

U.S. Employment

An artist can work in the U.S. if they have evidence of employment:

- signed contract(s)
- deal memos or
- an email trail confirming work

Note that an artist is permitted to perform at specific engagements as per the itinerary; freelancing is not allowed. Performance is defined as U.S. employment even for no fee such as charitable events.

Timetable

Such employment requires a work permit or (work) **visa**, valid only for the period of employment, whether for one booking or for several, as in a tour. For visas for extended periods, such as a tour, the rule of thumb is a confirmed booking every 30-45 days.

Maximum Period Allowed

An O-1 visa can be obtained for up to 3 years; a P-1 visa for up to 1 year with evidence of employment. Note: a **sole and exclusive** U.S. agent can function as an employer for the maximum P-1 visa 1-year term and/or the O-1 visa 3-year term (See note in Itinerary)

Adding Dates

Dates can be added only within the approved period of a visa if:

- a) activities are of a similar nature &
- b) for the same employer

What Kind of Visa?

There are 4 categories of work & associated visas: **O-1, P-1, P-2, P-3:**

O-1B for internationally-renowned individual artists with extraordinary ability.

Qualification criteria is of a high standard: recipient of a major national or international award or 3 of the following:

lead/starring roles, performances at major venues, press from major publications, recommendation letters from recognized experts, major commercial success, command of high salary.

O-2 for essential support staff associated with an O-1 applicant

O-3 for spouse and dependent children under age 21

P-1B for internationally-recognized groups of 2 or more persons.

Qualification criteria is the same as for the O-1 but not as high a standard.

P1-S for essential support services which cannot be readily performed by a U.S. worker

P-2 for individuals or groups under a reciprocal agreement between a foreign country and the U.S.

P2-S for essential support services which cannot be readily performed by a U.S. worker

P-3 for individuals or groups considered as “culturally unique”. Evidence as to cultural uniqueness of artist and performance is required.

P3-S for essential support services which cannot be readily performed by a U.S. worker

P-4 is available for spouse and dependents of P-1, P2 and P3

NOTE: O-2, O-3, P-1S, P2-S, P3-S, P4 require separate visa, same contents as principal petition with added evidence of essentiality and bios/training.

When to File?

Up to a year in advance. Processing can take 15-90+ days.

Who will file?

The U.S. employer of the artist, a U.S. agent, representing either the employer, the artist or both, or a U.S.-based person or entity authorized by a foreign employer as its agent may file the petition. For a tour with multiple venues (employers) one of the above may file for everyone through an Appointment of Agent form from each venue. Artists need to do an Appointment of Agent by Artist form if petition is being filed by other than their employer.

Types of Filings and Costs

Regular Processing

O- 1 and O-2 Petitions

Non-profits will pay \$530 per petition. U.S. small employers (1-24 employees) will pay \$830 per petition. All others will pay \$1655 per petition.

P- 1, P-1S, P-2, P-3, and P-3S Petitions

Non-profits will pay \$510 per petition. U.S. small employers (1-24 employees) will pay \$810 per petition. All others will pay \$1615 per petition.

Premium Processing

An additional fee of USD\$2805 per petition. Premium Processing takes 15 business days to get a response from USCIS.

Premium processing email:
vsc-premium.processing@dhs.gov

Premium processing email:
csc-premium.processing@dhs.gov

NOTE: O-2, P-1, P-2, P-3 and P-S Petitions will be capped at 25 names per petition

Where to File

For regular processing via USPS:

USCIS Texas Service Center
Attn: I-129 "O" or "P"
6046 N Belt Line Rd. STE 115 Irving, TX 75038-0018

For regular processing viacourier:

USCIS Texas Service Center
Attn: I-129 "O" or "P"
6046 N Belt Line Rd. STE 115 Irving, TX 75038-0001

For Premium Processing via USPS:

USCIS Texas Service Center
Attn: I-129 "O" or "P" Premium Processing
6046 N Belt Line Rd. STE 907 Irving, TX 75038-0022

For Premium Processing via courier:

USCIS Texas Service Center
Attn: I-129 "O" or "P" Premium Processing
6046 N Belt Line Rd. STE 907 Irving, TX 75038-0001

Types of Responses

A Notice of Action form (I-797) with a Receipt Number will be sent to the petitioner via mail or courier (if you provided a courier return envelope), followed by one of three responses within 15 business days (Premium Processing) or 90+ days (Regular Processing):

An approval: Premium Processing petitioners will be emailed confirmation of approval and then sent the Approved I-797 by mail or courier; Regular Processing petitioners will receive the Approved I-797 by mail only.

A Request For Evidence (RFE): USCIS may ask for more evidence to corroborate the petition. NOTE: An RFE resets the time for a USCIS response.

A denial: You may appeal or simply re-apply with a new, improved petition.

(What to File - See other side)

Substitutions

Personnel may be substituted on P-1, P-2 and P-3 visas. A letter to the Consulate from the petitioner with substitute's birthdate, nationality and qualifications is required. Include a passport scan. Support personnel CANNOT be substituted.

USCIS to Consulates

Approved petitions are copied to the PIMS system and must be available to a Consulate before a visa can be issued. This usually takes 72 hours.

Getting the Actual Visa

To obtain the actual visa to enter the U.S. requires completing the online DS-160 form, supplying a passport photo, paying a fee and making a Consular appointment. (Canadians excepted).

Check with the U.S. Consulate in your country for specific instructions, appointment wait times and time for visa issuance. Once you have the I-797 receipt number you can complete the DS-160 and make a tentative Consular appointment for after the expected approval date. Bring approved I-797 and copy of I-129 to interview.

NOTE: Consular appointments can be made at any U.S. Consulate; passports are surrendered at interview, picked up later with visa.

Extension of Stay

You can enter the country 10 days before the approved petition period and remain 10 days after the approved petition period but cannot work during that time. Confirm your exit date with the border official when you enter the United States.

Criminality

If any persons on a petition have ever been arrested/convicted, this must be dealt with before trying to enter the U.S.

**BAM! Pocket Guide to
U.S. Visas for Artists**

by Robert Baird



Contact Information



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What to File

File the following in this order:

Cover Letter

The cover letter should be on letterhead, if possible, addressed to the correct USCIS service center and contain what kind of visa is being requested, what type of processing and the name of the beneficiary (O-1A) or group (P-1B). State who is employing the artist, for what purpose and when this employment will take place.

A Table of Contents should follow detailing all of the attachments to the cover letter, including tabbed sections.

The name of the petitioner and in what capacity the petitioner is filing the petition should be addressed in a paragraph.

If there are any Special Considerations, they should be addressed next. This would include such things as requesting a waiver of the Labor Consultation Letter (see below) or an explanation of gaps in the Itinerary (see below).

The letter should then summarize how the beneficiary or beneficiaries meet the requirements for the visa; use the USCIS language and write a paragraph for each applicable section and refer to the Tab containing the evidence.

• Nomination or receipt of significant international awards or prizes for outstanding achievement OR three of the following:

• Performed or will perform as a starring or leading entertainment individual or group in production or events which have a distinguished reputation (as evidenced by critical reviews, advertisements, publicity releases, publications, contracts, or endorsements)

• Achieved international recognition and acclaim for outstanding achievements in the field as evidenced by reviews in major newspapers, trade journals, magazines or other published material.

• Performed and will perform services as a leading or starring individual or group for organizations and establishments that have a distinguished reputation (as evidenced by articles in newspapers, trade journals, or testimonials).

• A record of major commercial or critically acclaimed successes (as evidenced by such indicators as ratings, standing in the field, box office receipts, record cassette or video sales, and other achievements in the field as reported in trade journals, major newspapers, or other publications).

• Achieved significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field (such testimonials must clearly indicate the author's authority, expertise and knowledge of the artist's achievements).

• Commanded or now commands a high salary or other substantial remuneration for services comparable to others similarly situated in the field (as evidenced by contracts or other reliable evidence)

Finally, state at which Tab the complete Itinerary is located and finish with a note that the start and end dates of the petition period may be adjusted from the contracted dates for such things as travel recovery, time zone adjustment and rehearsal or other preparation time for the artist.

Note: Use Tabs dividers for each section of the petition.

I-907 Form Request for Premium Processing

It requires one signature on page 4.

I-129 Form Petition for Nonimmigrant Worker

It requires 2 signatures: one on page 6 and one on page 28. Note that you file the first 8 pages and pages 26-28 only and possibly pages 35 and 36 (but see Beneficiary List below). Signatures MUST be in blue ink.

NOTE: Be sure you are using the current forms from USCIS.

Beneficiary Chart

Utilize a Beneficiary Chart if you have more than 2-3 artists on the petition.

On the I-129 Page 2, Section 3, #2 type in "See attached Beneficiary Chart" and omit use of Supplement (pages 35-36)

This Chart can be done in columns:

Name of Artist: LAST, First
(List artists in alphabetical order by LAST name)

Instrument (or job)

Sex (M or F)

Nationality

Date of birth (MM/DD/YY)

Passport Number

Expiry date (MM/DD/YY)

Country of passport issuance

Country of birth

Home address

Number of years with group

Start date with group
(MM/DD/YY)

Previous approved petition numbers

It may be prudent to add additional artists in case of illness, etc.

Note: 75% of a group must have been members of the group for at least one year. (Circus groups and P3 excepted)

Passports

Attach a copy of the photo page of each artist's passport. Passports must be valid for 6 months past departure date on petition (Canada excepted)

Labor Consultation Letter

Attach a copy of the appropriate Labor Consultation Letter (AFM, AGMA, AGVA, AEA, SDC, IATSE). Note that for O-1B petitions, a copy of a previous Labor Consultation Letter (issued within the previous 2 years) can be used. This would be noted in the Special Considerations section of the Cover Letter

Biography/Background

Attach a complete biography of the artist/group. Include a discography if applicable.

Contracts

Attach signed copies of all employment contracts.

Programs

Attach sample performance programs (in English only)

Press Material

Attach articles, performance and CD reviews in newspapers, trade journal, etc. (in English only). Foreign material will need a certified translation. All material needs source/country/date information.

NOTE: Submit actual copies, not links. Videos/audio evidence is not accepted.

Recommendations

Attach Letters of Recommendation from noted experts in the field. Provide biographies and background information on their expertise.

Awards

Attach copies of any awards won; use a photo of award where appropriate.

Commercial Success

Attach evidence of CDs produced, sales figures, chart rankings, download data, YouTube followers, etc.

Prior Approval Notices

Attach copies of prior I-797 approvals

Complete Itinerary

Attach a complete, detailed itinerary. Include Date (MM/DD/YY), City, State, Venue, etc.), Type of Activity (Concert, Masterclass), complete venue contact information.

NOTE: You can include foreign tours in your itinerary but gaps between US dates not more than 2 months for P visas, 5 months for O visas.

Return Envelope

Include return courier/mail envelope

Fee Payment

Enclose the required fees. You may pay fees with credit card, bank drafts, cashier's, certified or personal checks, and money orders drawn on U.S. financial institutions and payable in U.S. funds.

Format of Filing

- You must file one copy of the petition
- All pages must be single-sided
- Use Dividers to separate sections
- Use a numbered Tab at bottom of each divider (Tab 1, Tab 2, etc.)
- Punch the petition with a 2-hole punch at top
- Use prong fasteners to fasten each copy
- Use Rubber bands to keep the two copies together
- If you are filing more than one type of petition (e.g. a P-1B and a P-1S) place a note on top: "Connected Visas – DO NOT SEPARATE in Mailroom"

Miscellaneous

Checking Case Status

You can check the status of any case online with your receipt number at <https://egov.uscis.gov/casestatus/landing.do> or at 1-800-375-5283 or (Premium Processing only) by calling 1-866-315-5718.

Typographical Errors

If you notice a typographical error on your I-797 Notice of Action (Receipt) you can correct it (Regular Processing) by filling in a form at <https://egov.uscis.gov/e-request/displayTypoForm.do?entryPoint=init&sroPageType=typoError> or (Premium Processing) by emailing the service center (see email addresses in **Where to File** on the other side).

Be sure to correct the errors as soon as possible and before the petition is approved although, for Premium Processing, they will correct an approved petition I-797.

Showcase Exception

Artists may enter the U.S. and perform on a B1/B2 visa or ESTA under the following conditions:

- event is closed to the public
- no tickets are sold
- no fee to artists (except expenses)
- no other performances in U.S.

NOTES