

O-1 TEMPORARY WORKER VISA CHECKLIST

Client: _____ Date: _____

In order to properly document your petition, it is necessary for you to obtain the following items:

Please note: We only need copies at this time. However, you may be requested to provide the original document to USCIS in order for them to approve your application.

I. Provide us with required information and USCIS documents

- ___ a. Please complete O-1 questionnaire.
- ___ b. Copy of Arrival/Departure card (I-94).
- ___ c. Copy of Form I-20 ID (for F-1 or M-1 student).

II. Documentation of nonimmigrant's extraordinary ability

- ___ a. Résumé or Curriculum Vitae.
- ___ b. Receipt of a major, internationally recognized award, or
- ___ c. At least three of the following forms of documentation:
 - Documentation of the nonimmigrant's receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor;
 - Documentation of the nonimmigrant's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields;
 - Published material in professional or major trade publications or major media about the nonimmigrant, relating to the nonimmigrant's work in the field for which classification is sought, which shall include the title, date, and author of such published material, and any necessary translation;
 - Evidence of the nonimmigrant's participation on a panel, or individually, as a judge of the work of others in the same or in an allied field of specialization to that for which classification is sought;
 - Evidence of the nonimmigrant's original scientific, scholarly, or business-related contributions of major significance in the field;
 - Evidence of the nonimmigrant's authorship of scholarly articles in the field, in professional journals, or other major media;
 - Evidence that the nonimmigrant has been employed in a critical or essential capacity for organizations and establishments that have a distinguished reputation;
 - Evidence that the nonimmigrant has commanded and now commands a high salary or other remuneration for services, evidenced by contracts or other reliable evidence.

III. Documentation regarding petitioning employer

- ___ a. Brochures or other promotional materials about the company, its products or services.
- ___ b. Prospectus or annual report.

- ___ c. Newspaper or magazine articles about company or its products or services.

IV. Evidence for establishing that a position requires the services of a nonimmigrant of extraordinary ability or achievement

- ___ a. The position or services to be performed involve an event(s), production(s), or an activity(ies) which has a distinguished reputation or involves a comparable, newly-organized events(s), production(s), or activity(ies);
- ___ b. The services to be performed are in a lead, starring, or critical role in an activity for an organization or establishment that has a distinguished reputation or record of employing extraordinary persons;
- ___ c. The services primarily involve a scientific or educational project, conference, convention, lecture, or exhibit sponsored by bona fide scientific or educational organizations or establishments, or
- ___ d. The services consist of a business project that is appropriate for an extraordinary executive, manager or highly technical person due to the complexity of the business project.

V. Mandatory peer group consultation

- ___ a. Consultation with an appropriate peer group, labor, and/or management organization regarding the nature of the work to be done and the nonimmigrant's qualifications is mandatory before a petition for an O-1 or O-2 classification can be approved. The peer group shall be an appropriate association or entity with expertise in that area. The advisory opinion provided by the peer group must describe the nonimmigrant's ability and achievements in the field of endeavor, described the nature of the duties to be performed, and state whether the position requires the services of a nonimmigrant of extraordinary ability. The written opinion shall contain a statement of facts which support the conclusion reached in the opinion and must be signed by an authorized official of the group or organization.

VI. Additional evidence

- ___ a. Affidavits, contracts, awards, and similar documentation must reflect the nature of the nonimmigrant's achievement and be executed by the person in charge of the institution, firm, establishment, or organization where the work was performed.
- ___ b. Affidavits written by present or former employers or recognized experts certifying to the recognition and extraordinary ability, which shall specifically describe the nonimmigrant's recognition and ability or achievement in factual terms and set forth the expertise of the affiant and the manner in which the affiant acquired such information.
- ___ c. Copies of any written contracts between the petitioner and the nonimmigrant beneficiary or, if there is no written contract, a summary of the terms of the oral agreement under which the nonimmigrant will be employed.
- ___ d. An explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities.



**U.S. Citizenship and
Immigration Services**

Employment-Based Immigration: First Preference EB-1

Employment-Based Immigration: First Preference EB-1

You may be eligible for an employment-based, first-preference visa if you have an extraordinary ability, are an outstanding professor or researcher, or are a multinational executive or manager. Each occupational category has certain requirements that must be met:

Eligibility Criteria

Categories	Description	Evidence
Extraordinary Ability	You must be able to demonstrate extraordinary ability in the sciences, arts, education, business, or athletics through sustained national or international acclaim. Your achievements must be recognized in your field through extensive documentation. No offer of employment is required.	You must meet 3 of 10 criteria* below, or provide evidence of a one-time achievement (i.e., Pulitzer, Oscar, Olympic Medal)
Outstanding professors and researchers	You must demonstrate international recognition for your outstanding achievements in a particular academic field. You must have at least 3 years experience in teaching or research in that academic area. You must be entering the United States in order to pursue tenure or tenure track teaching or comparable research position at a university or other institution of higher education.	You must include documentation of at least two listed below** and an offer of employment from the prospective U.S. employer.
Multinational manager or executive	You must have been employed outside the United States in the 3 years preceding the petition for at least 1 year by a firm or corporation and you must be seeking to enter the United States to continue service to that firm or organization. Your employment must have been outside the United States in a managerial or executive capacity and with the same employer, an affiliate, or a subsidiary of the employer.	Your petitioning employer must be a U.S. employer. Your employer must have been doing business for at least 1 year, as an affiliate, a subsidiary, or as the same corporation or other legal entity that employed you abroad.

*** Criteria for Demonstrating Extraordinary Ability**

You must meet 3 out of the 10 listed criteria below to prove extraordinary ability in your field:

- Evidence of receipt of lesser nationally or internationally recognized prizes or awards for excellence
- Evidence of your membership in associations in the field which demand outstanding achievement of their members
- Evidence of published material about you in professional or major trade publications or other major media
- Evidence that you have been asked to judge the work of others, either individually or on a panel
- Evidence of your original scientific, scholarly, artistic, athletic, or business-related contributions of major significance to the field
- Evidence of your authorship of scholarly articles in professional or major trade publications or other major media
- Evidence that your work has been displayed at artistic exhibitions or showcases
- Evidence of your performance of a leading or critical role in distinguished organizations
- Evidence that you command a high salary or other significantly high remuneration in relation to others in the field
- Evidence of your commercial successes in the performing arts

**** Examples of Documentary Evidence That A Person is an Outstanding Professor Or Researcher**

- Evidence of receipt of major prizes or awards for outstanding achievement
- Evidence of membership in associations that require their members to demonstrate outstanding achievement
- Evidence of published material in professional publications written by others about the alien's work in the academic field
- Evidence of participation, either on a panel or individually, as a judge of the work of others in the same or allied academic field
- Evidence of original scientific or scholarly research contributions in the field
- Evidence of authorship of scholarly books or articles (in scholarly journals with international circulation) in the field

Application Process

- **Extraordinary Ability:** You may petition for yourself by filing a Form I-140, Petition for Alien Worker.
- **Outstanding Professors and Researchers:** Your employer must file a Form I-140, Petition for Alien Worker.
- **Multinational Manager or Executive:** Your employer must file USCIS Form I-140, Petition for Alien Worker.

Last Reviewed/Updated: 10/29/2015

EB-1: Permanent Workers – Extraordinary Ability/Outstanding Professor/Multinational Executive

You may be eligible for an employment-based, first-preference visa if you have an extraordinary ability, are an outstanding professor or researcher, or are a multinational executive or manager.

\$700

FORM FILING FEE(S)

Who is eligible?

A labor certification is not required, but each occupational category has certain requirements that must be met:

Extraordinary Ability - You must be able to demonstrate extraordinary ability in the sciences, arts, education, business, or athletics through sustained national or international acclaim. Your achievements must be recognized in your field through extensive documentation. No offer of employment is required.

[View More Information About the criteria for extraordinary ability](#)

Outstanding Professors and Researchers - You must demonstrate international recognition for your outstanding achievements in a particular academic field. You must have at least three years experience teaching or researching in that academic area. You must be entering the United States in order to pursue tenure or a tenure track teaching or comparable research position at a university or other institution of higher education.

[View More Information About evidence for outstanding professors and researchers](#)

Multinational Manager or Executive - You must have been employed outside the United States for at least one year by a firm or corporation during the three years preceding the petition and you must be seeking to enter the United States to continue service for that firm or organization. Your employment must have been outside the United States in a managerial or executive capacity and with the same employer, an affiliate, or a subsidiary of the employer.

Employer Criteria for Multinational Manager or Executive:

- Your petitioning employer must be a U.S. employer.
- Your employer must have been doing business for at least one year, as an affiliate, a subsidiary, or as the same corporation or other legal entity that employed you abroad.

How to Apply

To begin the petition process for the EB-1 Visa for extraordinary ability you or the employer must:

- Complete and sign Form I-140, Petition for a Nonimmigrant Worker.
- Refer to Form I-140 instructions for further details.
- Include the appropriate filing fee with the petition (including the biometrics fee if applicable).
- Collect the necessary documents to show your eligibility.

Note: No offer of employment is required for extraordinary ability. If you are filing for an EB-1 visa under extraordinary ability, you may file the Form I-140 petition for yourself. You may be eligible to file Adjustment of Status Form I-485.

To begin the petition process for the EB-1 Visa for an outstanding professor and researcher or for a multinational manager or executive, the employer must:

- Complete and sign Form I-140, Petition for a Nonimmigrant Worker.
- Refer to Form I-140 instructions for further details.
- Include the appropriate filing fee with the petition (including the biometrics fee if applicable).
- Collect the necessary documents to show your eligibility.

Note: Any petition that is not signed or accompanied by the correct fee will be rejected with a notice that the petition is deficient. Fees are accepted in the form of money order, personal check or cashier's check only.

What Happens After You Apply

Once USCIS receives your Form I-140 for the EB-1 Visa, we will process your application and then you will receive:

- A receipt notice of your Form I-140, Petition for Nonimmigrant Worker,
- Receive notice for Biometrics appointment, and
- A notice of a decision in writing.

Once your petition is approved, and your priority date is current, you can apply to become a Legal Permanent Resident. You can do this by either filing a Form I-485 or applying through the consulate. If you are outside of United States, you should apply through the consulate. This method is called consular processing. If you are in the United States, the visa is available (check State Department Visa Bulletin), and you are in a legal status, then you can apply to adjust status.

Forms and Fees

[Form I-140, Petition for a Nonimmigrant Worker \(http://www.uscis.gov/i-140\)](http://www.uscis.gov/i-140), \$700 filing fee

Use our [Fee Calculator \(https://www.uscis.gov/feecalculator\)](https://www.uscis.gov/feecalculator) to help determine your fee.

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Related Options

Obtain Employment Authorization Document

(https://my.uscis.gov/exploremyoptions/obtain_employment_authorization_document)

Becoming a U.S. Citizen Through Naturalization

https://my.uscis.gov/exploremyoptions/eb1_permanent_workers



U.S. Citizenship and Immigration Services

O-1 Visa: Individuals with Extraordinary Ability or Achievement

The O-1 nonimmigrant visa is for the individual who possesses extraordinary ability in the sciences, arts, education, business, or athletics, or who has a demonstrated record of extraordinary achievement in the motion picture or television industry and has been recognized nationally or internationally for those achievements.

The O nonimmigrant classification is commonly referred to as:

- O-1A: individuals with an extraordinary ability in the sciences, education, business, or athletics (not including the arts, motion pictures or television industry)
- O-1B: individuals with an extraordinary ability in the arts or extraordinary achievement in motion picture or television industry
- O-2: individuals who will accompany an O-1, artist or athlete, to assist in a specific event or performance. For an O-1A, the O-2's assistance must be an "integral part" of the O-1A's activity. For an O-1B, the O-2's assistance must be "essential" to the completion of the O-1B's production. The O-2 worker has critical skills and experience with the O-1 that cannot be readily performed by a U.S. worker and which are essential to the successful performance of the O-1
- O-3: individuals who are the spouse or children of O-1's and O-2's

General Eligibility Criteria

To qualify for an O-1 visa, the beneficiary must demonstrate extraordinary ability by sustained national or international acclaim and must be coming temporarily to the United States to continue work in the area of extraordinary ability.

Extraordinary ability in the fields of science, education, business or athletics means a level of expertise indicating that the person is one of the small percentage who has risen to the very top of the field of endeavor.

Extraordinary ability in the field of arts means distinction. Distinction means a high level of achievement in the field of the arts evidenced by a degree of skill and recognition substantially above that ordinarily encountered to the extent that a person described as prominent is renowned, leading, or well-known in the field of arts.

To qualify for an O-1 visa in the motion picture or television industry, the beneficiary must demonstrate extraordinary achievement evidenced by a degree of skill and recognition significantly above that ordinarily encountered to the extent the person is recognized as outstanding, notable or leading in the motion picture and/or television field.

Application Process O-1 Visa

The petitioner should file Form I-129, Petition for Nonimmigrant Worker, (see [Form I-129, Petition for Nonimmigrant Worker](#)) with the USCIS office listed on the form instructions. The petition may not be filed more than one year before the actual need for the alien's services. To avoid delays, the Form I-129 should be filed at least 45 days before the date of employment.

The petitioner must submit Form I-129, Petition for Nonimmigrant Worker, and the following documentary evidence:

Consultation

A written advisory opinion from a peer group (including labor organizations) or a person with expertise in the beneficiary's area of ability. If the O-1 petition is for an individual with extraordinary achievement in motion picture or television, the consultation must come from an appropriate labor union and a management organization with expertise in the beneficiary's area of ability.

When a consultation includes a watermark or other distinctive marks to confirm the authenticity of the document, petitioners should submit to USCIS the version containing the watermark or other distinctive marks. Copies of documents that do not contain the appropriate watermark or other distinctive marks may raise doubts about the authenticity of the document and may result in processing delays. For example, USCIS may request that the petitioner submit the original version of the document. To avoid processing delays, petitioners should ensure that they submit the appropriate version and that any associated watermark or other distinctive marks are legible.

Exceptions to the Consultation Requirement

If the petitioner can demonstrate that an appropriate peer group, including a labor organization, does not exist, then the decision will be based on the evidence of record.

A consultation may be waived for an alien with extraordinary ability in the field of arts if the alien seeks readmission to perform similar services within 2 years of the date of a previous consultation.

Petitioners should submit a waiver request and a copy of the previous consultation with the petition.

Contract between petitioner and beneficiary

A copy of any written contract between the petitioner and the beneficiary or a summary of the terms of the oral agreement under which the beneficiary will be employed.

NOTE: USCIS will accept an oral contract, as evidenced by the summation of the elements of the oral agreement. Such evidence may include but is not limited to: emails between the contractual parties, a written summation of the terms of the agreement, or any other evidence which demonstrates that an oral agreement was created.

The summary of the terms of the oral agreement must contain:

- what was offered by the employer
- what was accepted by the employee

The summary does not have to be signed by both parties to establish the oral agreement. However, it must document the terms of the employment offered and that the beneficiary has agreed to the offer.

Itineraries

An explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities, if applicable (see the memorandum [“Clarifying Guidance on “O” petition Validity Period” \(PDF, 57 KB\)](#)). The petitioner must establish that there are events or activities in the beneficiary's field of extraordinary ability for the validity period requested, e.g. an itinerary for a tour or a series of events.

Agents

A U.S. Agent may be the actual employer of the beneficiary, the representative of both the employer and the beneficiary, or a person or entity authorized by the employer to act for, or in place of, the employer as its agent.

Agent for Multiple Employers

Please note that a petitioner who will be filing as an agent for multiple employers must establish that it is duly authorized to act as an agent for the other employers. The required conditions can be found on the [“Requirements for Agents and Sponsors Filing as Petitioners for the O and P Visa Classifications” \(PDF, 890 KB\)](#) page.

Additionally, agents filing I-129 petitions for multiple employers must include with the petition:

- Supporting documentation including a complete itinerary of the event or events which specifies the dates of each service or engagement, the names and addresses of the actual employers, and the names and addresses of the establishments, venues, or locations where the services will be performed
- Contracts between the actual employers and the beneficiary; and
- An explanation of the terms and conditions of the employment with required documentation. Once the visa petition is approved by USCIS, the beneficiary can apply at a U.S. embassy or consulate for the visa. Department of State (DOS) establishes visa application processing and issuance fees. For more information on visa application processing and issuance fees, see the [“Department of State Consular Affairs webpage: www.travel.state.gov”](#).

Agent Performing the Function of an Employer

An I-129 filed by an agent performing the function of an employer must include:

- The contractual agreement between the agent and the beneficiary which specifies the wage offered and the other terms and conditions of employment. This can be a summary of the terms of the oral agreement or a written contract. A contract is not required between the beneficiary and the entities that will ultimately use the beneficiary’s services.
- A petition which requires the alien to work in more than one location must include an itinerary with the dates and locations of work. There are no exceptions to the itinerary requirement when the petition is filed by an agent performing the function of an employer. However, USCIS does give some flexibility to how detailed the itinerary must be and does take into account industry standards when determining whether the itinerary requirement has been met. As such, the itinerary should at a minimum indicate what type of work the beneficiary will be engaged, where, and when this work will take place.

Please note that USCIS relies on the contractual agreement that must be provided with the petition to determine whether the agent is functioning as the employer of the beneficiary. The contractual agreement should establish the type of working relationship between the agent and beneficiary and should clearly lay out how the beneficiary will be paid. In totality, if the terms and conditions of employment show a level of control over the beneficiary’s work being relinquished to the agent, then the agent may establish that it is performing the function of an employer. This determination will be on a case by case basis and will be based on the contractual agreement, whether written or oral.

The petition must be submitted with evidence regarding the wage offered. However, the regulations do not contain a prevailing wage requirement. Furthermore, no particular wage structure is required. A detailed description of the wage offered or fee structure and that the wage offered/ fee structure was agreed upon may satisfy this requirement.

Agent for Foreign Employers

Agents filing I-129 petitions for foreign employers must submit the minimum general documentary evidence as required for all O-1 petitions which include:

- Copies of any written contracts between the foreign employer and the beneficiary or a summary of the terms of the oral agreement under which the beneficiary will be employed
- An explanation of the nature of the events or activities, the beginning and ending dates for the events or activities, and a copy of any itinerary for the events or activities
- A written advisory opinion from the appropriate consulting entity or entities.

The regulations do not require any additional documentary requirements for an agent filing on behalf of a foreign employer, however, it is the foreign employer who is responsible for complying with all applicable employer sanctions provisions.

Evidentiary Criteria for O-1A

Evidence that the beneficiary has received a major, internationally-recognized award, such as a Nobel Prize, or evidence of at least (3) three of the following:

- Receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor
- Membership in associations in the field for which classification is sought which require outstanding achievements, as judged by recognized national or international experts in the field
- Published material in professional or major trade publications, newspapers or other major media about the beneficiary and the beneficiary's work in the field for which classification is sought
- Original scientific, scholarly, or business-related contributions of major significance in the field
- Authorship of scholarly articles in professional journals or other major media in the field for which classification is sought
- A high salary or other remuneration for services as evidenced by contracts or other reliable evidence
- Participation on a panel, or individually, as a judge of the work of others in the same or in a field of specialization allied to that field for which classification is sought
- Employment in a critical or essential capacity for organizations and establishments that have a distinguished reputation

If the above criteria do not readily apply to the beneficiary's occupation, the petitioner may submit comparable evidence in order to establish the beneficiary's eligibility.

Evidentiary Criteria for O-1B

Evidence that the beneficiary has received, or been nominated for, significant national or international awards or prizes in the particular field, such as an Academy Award, Emmy, Grammy or Director's Guild Award, or evidence of at least (3) three of the following:

- Performed and will perform services as a lead or starring participant in productions or events which have a distinguished reputation as evidenced by critical reviews, advertisements, publicity releases, publications, contracts or endorsements
- Achieved national or international recognition for achievements, as shown by critical reviews or other published materials by or about the beneficiary in major newspapers, trade journals, magazines, or other publications
- Performed and will perform in a lead, starring, or critical role for organizations and establishments that have a distinguished reputation as evidenced by articles in newspapers, trade journals, publications, or testimonials.
- A record of major commercial or critically acclaimed successes, as shown by such indicators as title, rating or standing in the field, box office receipts, motion picture or television ratings and

other occupational achievements reported in trade journals, major newspapers or other publications

- Received significant recognition for achievements from organizations, critics, government agencies or other recognized experts in the field in which the beneficiary is engaged, with the testimonials clearly indicating the author's authority, expertise and knowledge of the beneficiary's achievements
- A high salary or other substantial remuneration for services in relation to others in the field, as shown by contracts or other reliable evidence

If the above standards do not readily apply to the beneficiary's occupation in the arts, the petitioner may submit comparable evidence in order to establish eligibility (this exception does not apply to the motion picture or television industry).

Application Process O-2 Visa

The petitioner must file a petition with USCIS for the O-2 visa. The petitioner should file Form I-129, Petition for Nonimmigrant Worker, (see "[Form I-129, Petition for Nonimmigrant Worker](#)") with the USCIS office listed on the form instructions. An O-2 alien must be petitioned for in conjunction with the services of the O-1 artistic or athletic alien. The petitioner may not file the Form I-129 more than one year before the O nonimmigrant will begin employment. To avoid delays, Form I-129 should be filed at least 45 days before the date of employment.

The petitioner must submit Form I-129, Petition for Nonimmigrant Worker, and the following documentary evidence:

Consultation

If the O-2 petition is for support of an individual with extraordinary ability in athletics or the arts, the consultation must be from the appropriate labor organization; or
If the O-2 petition is for support of an individual with extraordinary achievement in motion pictures or television, the consultation must come from an appropriate labor organization and a management organization with expertise in the skill area involved.

Exceptions to the Consultation Requirement:

If the petitioner can demonstrate that an appropriate peer group, including a labor organization, does not exist the decision will be based on the evidence of record.

Agents

See above for details on Agents.

Evidentiary Criteria for O-2

The evidence should establish the current essentiality, critical skills, and experience of the O-2 beneficiary with the O-1 beneficiary and that the beneficiary has substantial experience performing the critical skills and essential support services for the O-1.

In the case of a specific motion picture or television production, the evidence should establish that significant production has taken place outside the United States and will take place inside the United States, and that the continuing participation of the O-2 beneficiary is essential to the successful completion of the production.

Post Petition Approval

Once the visa petition is approved for O-1/O-2 by USCIS, the beneficiary can apply at a U.S. embassy or consulate for the visa. Department of State (DOS) establishes visa application processing and

issuance fees. For more information on visa application processing and issuance fees, see the [Temporary Workers Visas Department of State](#) page.

Period of Stay/Extension of Stay

Initial Period of Stay	Extension of Stay
Up to 3 years	USCIS will determine time necessary to accomplish the initial event or activity in increments of up to 1 year.

As an O nonimmigrant, the beneficiary may be admitted to the United States for the validity period of the petition, plus a period of up to 10 days before the validity period begins and 10 days after the validity period ends. The beneficiary may only engage in authorized employment during the validity period of the petition.

Extension of Stay

The petitioner must request an extension of stay to continue or complete the same event or activity by filing the following documentation with USCIS:

- Form I-129, Petition for Nonimmigrant Worker
- A copy of the beneficiary's Form I-94, Arrival/ Departure Record
- A statement from the petitioner explaining the reasons for the extension

In order to assist USCIS in adjudication of your request for extension, the statement should describe the event or activity that was the basis for the original approval and confirm that the extension is needed in order for the beneficiary to continue or complete the same event or activity as described.

The beneficiary's spouse and children must file Form I-539, Application to Extend/Change Nonimmigrant Status, and submit any supporting documents to extend their stay.

For more information see the ["Form I-539 Application to Extend/Change Nonimmigrant Status"](#) page.

Family of O-1 and O-2 Visa Holders

Any accompanying or following to join spouse and children under the age of 21 may be eligible to apply for an O-3 nonimmigrant visa, subject to the same period of admission and limitations as the O-1/O-2 nonimmigrant. They may not work in the United States under this classification, but they may engage in full or part time study on an O-3 visa.

Changing Employers

If you are an O-1 nonimmigrant in the United States and you want to change employers, then your new employer must file a Form I-129 with the USCIS office listed on the form instructions.

If the petition was filed by an agent, an amended petition must be filed with evidence relating to the new employer and a request for an extension of stay.

Material Change in Terms and Conditions of Employment

If there has been any material change in the terms and conditions of the beneficiary's employment or the beneficiary's eligibility, the petitioner must file an amended petition on Form I-129 with the Service Center where the original petition was filed.

Note: There are special rule for athletes. When professional athletes with O-1 nonimmigrant status are traded from one team to another, employment authorization will continue with the new team for 30 days during which time the new employer must file a new Form I-129. The simple act of filing the Form I-129, within this 30-day period, extends the employment authorization at least until the petition is adjudicated. If the new employer does not file a new Form I-129 within 30 days of the trade, the athlete loses his or her employment authorization. The athlete also loses his or her employment authorization if the new Form I-129 is denied.

Return Transportation

If the employment of an O nonimmigrant beneficiary is terminated for reasons other than voluntary resignation, the employer must pay for the reasonable cost of return transportation to the O nonimmigrant's last place of residence before entering into the United States. If an agent filed the petition for the employer, the agent and the employer are equally responsible for paying these costs.

Last Reviewed/Updated: 01/05/2017

9 FAM 402.13

ALIENS OF EXTRAORDINARY ABILITY O VISAS

(CT:VISA-713; 11-30-2018)
(Office of Origin: CA/VO/L/R)

9 FAM 402.13-1 STATUTORY AND REGULATORY AUTHORITY

9 FAM 402.13-1(A) Immigration and Nationality Act

(CT:VISA-1; 11-18-2015)

INA 101(a)(15)(O) (8 U.S.C. 1101(a)(15)(O)); INA 101(a)(46) (8 U.S.C. 1101(a)(46)); INA 214(a)(2)(A) (8 U.S.C. 1184(a)(2)(A)); INA 214(c) (8 U.S.C. 1184(c)).

9 FAM 402.13-1(B) Code of Federal Regulations

(CT:VISA-195; 09-28-2016)

22 CFR 41.55; 8 CFR 214.2.

9 FAM 402.13-2 OVERVIEW OF O VISAS

(CT:VISA-433; 08-09-2017)

- a. The O classification was created by the Immigration Act of 1990, Public Law 101-649 of November 29, 1990, to provide specifically for the admission of persons with extraordinary ability in the sciences, arts, education, business, and athletics, or extraordinary achievement in motion picture and television production, and their essential support personnel. Many such aliens were previously classified as H-1B nonimmigrants. Since the H-1B classification was not originally designed to address these classes of activities, Congress determined that they should be separated from that classification and treated independently.
- b. An O-1 or O-2 alien must be the beneficiary of a petition approved by the Department of Homeland Security (DHS) prior to visa issuance. USCIS regulations provide that the petitioner may be either an employer or agent. While O-1 beneficiaries may not self-petition, a separate legal entity owned by the O-1 beneficiary may be eligible to file a petition on behalf of the O-1 beneficiary.
- c. On April 18, 2017, the President signed the Executive Order on Buy American Hire American (E.O. 13788), intended to "create higher wages and employment rates for workers in the United States, and to protect their economic interests." The goal of E.O. 13788 is to protect the interests of United States workers in the administration of our immigration system, including through the prevention of fraud

or abuse, and it is with this spirit in mind that cases under INA 101(a)(15)(O) must be adjudicated.

9 FAM 402.13-3 CLASSIFICATION SYMBOLS

(CT:VISA-1; 11-18-2015)

22 CFR 41.12 identifies the following O visa classification symbols for aliens of extraordinary ability in accordance with INA 101(a)(15)(O):

O1	Alien with Extraordinary Ability in Sciences, Arts, Education, Business or Athletics
O2	Alien Accompanying and Assisting in the Artistic or Athletic Performance by O1
O3	Spouse or Child of O1 or O2

9 FAM 402.13-4 CLASSIFICATION STANDARDS FOR O NONIMMIGRANTS

9 FAM 402.13-4(A) O-1 Nonimmigrants

(CT:VISA-713; 11-30-2018)

a. **In General:** The O-1 category applies to any of the following:

- (1) An individual who has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim, and who is coming temporarily to the United States to continue work in the area of extraordinary ability; or
- (2) An individual who has a demonstrated record of extraordinary achievement in motion picture and/or television productions, and who is coming temporarily to the United States to continue work in the area of extraordinary achievement.

b. **Criteria for Position Requiring O-1 Alien:** The Department of Homeland Security interprets the statute to encompass "any field of endeavor" which may include such professions as craftsman, lecturers, the culinary arts, etc. The O-1 visa holder must seek to enter for the purpose of continuing the same type of work but there is no requirement that the position to be filled is one that would require a person of O-1 caliber.

c. **Defining Extraordinary Ability and Extraordinary Achievement:**

- (1) "Extraordinary ability" in science, education, business or athletics is defined as "a level of expertise indicating that the person is one of the small percentage who has arisen to the very top of the field of endeavor."
- (2) Extraordinary ability in the arts means "distinction." This category requires the petition to establish that "a person described as prominent is renowned, leading, or well-known in the field of arts."
- (3) Extraordinary achievement in the motion picture and television industry means a very high level of accomplishment as evidenced by a degree of skill and

recognition significantly above that ordinarily encountered. The person must be "outstanding, notable, or leading."

9 FAM 402.13-4(B) O-2 Nonimmigrants

(CT:VISA-1; 11-18-2015)

The O-2 category applies to an accompanying alien who is coming temporarily to the United States solely to assist in the artistic or athletic performance of an O-1 nonimmigrant. An O-2 alien must be petitioned for in conjunction with the services of the O-1 alien to whom he or she provides support and is not entitled to work separate and apart from the O-1 alien. To qualify for status, O-2 aliens must:

- (1) Be an integral part of the actual performances or events and possess critical skills and experience with the O-1 alien that are not of a general nature and cannot be performed by others; or
- (2) In the case of a motion picture or television production, have skills and experience with the O-1 alien which are not of a general nature and which are critical, either based on a pre-existing and longstanding working relationship with the O-1 alien or, if in connection with a specific production only, because significant production (including pre- and post-production) will take place both inside and outside the United States and the continuing participation of the alien is essential to the successful completion of the production.

9 FAM 402.13-4(C) O-3 Nonimmigrants

(CT:VISA-1; 11-18-2015)

The O-3 category applies to the spouse and children who are accompanying or following to join an alien classified O-1 or O-2.

9 FAM 402.13-5 DHS PETITION ADJUDICATIONS

9 FAM 402.13-5(A) Department of Homeland Security (DHS) Responsible for Adjudicating O Petitions

(CT:VISA-713; 11-30-2018)

- a. Every O-1 and O-2 alien must be the beneficiary of a petition, approved by DHS, prior to visa issuance or, in the case of visa-exempt aliens, admission into the United States. By mandating a preliminary petition, Congress placed responsibility and authority with DHS to determine whether the requirements for O status, which are examined in the petition process, have been met.
- b. You should not request the Department to provide status reports on petitions filed with DHS, nor should you contact DHS directly for such reports. As an alternative, you may suggest that the applicant communicate with his or her sponsor. Cases of public relations significance may be submitted to the Department by emailing your post liaison in CA/VO/F.

9 FAM 402.13-5(B) Effect of Filing Immigrant Visa Petition

(CT:VISA-713; 11-30-2018)

DHS has determined that the approval of a permanent labor certification or the filing of a preference petition for an alien shall not be a basis for denying an O-1 or O-3 petition, a request to extend such a petition, or the alien's application for admission, change of status, or extension of stay. The alien may legitimately come to the United States for a temporary period as an O-1 or O-3 nonimmigrant and depart voluntarily at the end of his or her authorized stay and, at the same time, lawfully seek to become a permanent resident of the United States.

9 FAM 402.13-5(C) Consultation Requirement

(CT:VISA-713; 11-30-2018)

Consultations with an appropriate United States peer group (which could include a person or persons with expertise in the field), labor, and/or management organization regarding the nature of the work to be done and the alien's qualifications is mandatory before a petition for an O-1 or O-2 classification can be approved by the Department of Homeland Security. Consultations are normally in the form of a written advisory opinion. The advisory opinion is usually mandatory, although DHS may obtain or waive it under certain circumstances (for example, if no appropriate union exists). Consultations are advisory in nature and are not binding on DHS.

9 FAM 402.13-5(D) Effect of Labor Disputes

(CT:VISA-713; 11-30-2018)

- a. DHS will deny an O petition in the event that the Secretary of Labor certifies that a strike or labor dispute involving a work stoppage is in progress in the occupation at the place the alien will be employed, and the alien's employment would adversely affect the wages and working conditions of U.S. workers. If the petition has already been approved, but the alien has not yet entered the United States or commenced employment, the approval of the petition is automatically suspended and application for admission shall be denied.
- b. Should you receive notification from DHS, the Department, or another official source that a previously approved petition has been suspended because of a strike or other labor dispute, you must defer visa issuance and follow whatever instructions are given regarding the disposition of the suspended petition. If you have any questions regarding the validity of a particular petition, you must query the approving DHS office directly.

9 FAM 402.13-6 PETITION PROCEDURES

9 FAM 402.13-6(A) Using Form I-129, Petition for a Nonimmigrant Worker, to File Petition

(CT:VISA-713; 11-30-2018)

- a. A U.S. or foreign employer uses Form I-129, Petition for a Nonimmigrant Worker, to classify an alien as O-1 or O-2.
- b. Form I-129 must be filed only with the DHS Service Center having jurisdiction . The petition may not be filed more than one year before the actual need for the alien's services. Form I-129 is also used to request extensions of petition validity and extensions of stay in O status. (See [9 FAM 402.13-8](#) below.)

9 FAM 402.13-6(B) Services in More Than One Location

(CT:VISA-713; 11-30-2018)

A petition which requires the alien to work in more than one location must include an itinerary with the dates and locations of the employment and must be filed with the DHS Service Center having jurisdiction.

9 FAM 402.13-6(C) Services for More Than One Employer

(CT:VISA-713; 11-30-2018)

If the beneficiary will work for more than one employer either each employer must file a separate petition with DHS or in some circumstances an agent can, on the employers' behalf, file one petition which encompasses all of the separate employers if so authorized by all of the employers individually. Employment by the O nonimmigrant other than the specific employment listed in the petition is strictly prohibited. If an applicant wishes to add an employer, the new employer must file a petition or amended petition with DHS.

9 FAM 402.13-6(D) Change of Employer

(CT:VISA-713; 11-30-2018)

If an O-1 or O-2 alien in the United States seeks to change employers, the new employer must file a petition with the jurisdictional DHS Service Center. An O-2 alien may change employers only in conjunction with a change of employers by the principal O-1 alien. When an O-1 or O-2 petition is filed by an agent, an amended petition must be filed with evidence relating to the new employer. A request for an extension of stay must also be filed.

9 FAM 402.13-6(E) Amended Petition

(CT:VISA-713; 11-30-2018)

A petitioner shall file an amended petition on Form I-129, Petition for a Nonimmigrant Worker, with fee, with the DHS Service Center where the original petition was filed to reflect any material changes in the terms and conditions of employment or the beneficiary's eligibility as specified in the original approved petition. In the case of a petition filed for an artist or entertainer, a petitioner may add additional performances or engagements during the validity period of the petition without filing an amended petition.

9 FAM 402.13-6(F) Agents as Petitioners

(CT:VISA-713; 11-30-2018)

AU.S. agent may file an O petition in cases involving an alien who is traditionally self-employed or who uses agents to arrange short-term employment on his or her behalf with numerous employers, and in cases where a foreign employer authorizes the agent to act in its behalf. An agent may also file a petition on behalf of a foreign employer.

9 FAM 402.13-6(G) Beneficiaries

(CT:VISA-713; 11-30-2018)

- a. **Named Beneficiaries:** Form I-797, Notice of Action and the record of petition approval in PIMS or PCQS will contain the names of all approved beneficiaries.
- b. **Multiple Beneficiaries:** More than one O-2 accompanying alien may be included on a petition if they are assisting the same O-1 alien for the same event or performances, during the same period of time and in the same location.
- c. **Substituting Beneficiaries Not Permitted:** Since O-1 petitions relate to individual entertainers, substitutions in the case of O-1 beneficiaries will not be permitted. Thus, a new petition will be required in the case of a change of beneficiary. Substitutions of beneficiaries are not permitted on O-2 petition cases.

9 FAM 402.13-6(H) Department of Homeland Security (DHS) Notification to Petitioner of Petition Approval

(CT:VISA-713; 11-30-2018)

DHS uses Form I-797 Notice of Action to notify the petitioner that the O petition filed has been approved or that the extension of stay in O status for the employee has been granted. The approval notice shall include the alien beneficiary's name, classification, and the petition's period of validity. The petitioner may furnish Form I-797 to the employee for the purpose of applying for his or her O visa (although the petition must still be verifiable through PIMS) or to facilitate the employee's entry into the United States, either initially or after a temporary absence abroad during the employee's stay in O status.

9 FAM 402.13-6(I) Transmission of Approved Petition to Post Via the Kentucky Consular Center (KCC)

(CT:VISA-713; 11-30-2018)

U.S. Citizenship and Immigration Services (USCIS) sends all approved NIV petitions to the Kentucky Consular Center (KCC) for transmittal to post. The KCC scans the petition and supporting documents into the Petition Information Management Service (PIMS), which posts can access through the Consular Consolidated Database (CCD). PIMS allows all information on a petitioner, petition, and/or beneficiary to be linked through a centrally managed CCD service. As a result of this change, the KCC has ceased emailing scanned copies of approved NIV petitions to posts.

9 FAM 402.13-7 VALIDITY OF APPROVED O PETITIONS

(CT:VISA-713; 11-30-2018)

- a. An approved petition for an alien classified O-1 will be valid for a period of time determined by DHS to be necessary to accomplish the event or activity, not to exceed three years.
- b. An approved petition for an alien classified O-2 will be valid for a period of time determined to be necessary for the O-1 artist or athlete to accomplish the event or activity, not to exceed three years.
- c. You are authorized to accept and issue visas to qualified applicants up to 90 days in advance of applicants' beginning of status as noted on the Form I-797. You must inform applicants verbally and in writing that they can only use the visa to apply for entry to the United States starting ten days prior to the beginning of the approved status period noted on their Form I-797. (See [9 FAM 402.13-8](#) below.) In addition, such visas must be annotated:
"Not valid until (ten days prior to the petition validity date)".
- d. **Petition Extension:** The petitioner must file a request to extend the validity of an O petition on Form I-129, Petition for a Nonimmigrant Worker, in order to continue or complete the same activity or event specified in the original petition. Supporting documents are not required unless requested by DHS. A petition extension may be filed only if the validity of the original petition has not expired.

9 FAM 402.13-8 LENGTH OF STAY

(CT:VISA-713; 11-30-2018)

- a. An O-1 or O-2 nonimmigrant may be admitted to the United States for the validity period of the petition, plus a period of up to ten days before the validity period of the petition begins and ten days after it ends. The alien may not work except during the validity period of the petition. There is not an overall time limit as to how long one may be present in the United States in total in an O-1 status, such as there is for the H1B and L1 visa classifications.
- b. **Extension of Stay:** The petitioner must request the extension of an alien's stay in the United States on the same Form I-129, Petition for a Nonimmigrant Worker, used to file for the extension of the alien's petition. The effective dates of the petition extension and of the beneficiary's extension of stay shall be the same. The beneficiary must be physically present in the United States at the time the extension of stay petition is filed. If the alien is required to leave the United States for business or personal reasons while the extension requests are pending, the petitioner may ask DHS to cable notification of the petition extension to the consular office abroad where the alien will apply for a visa.
- c. **Extension Periods:** An extension of stay may be authorized in increments of up to one year for an O-1 or O-2 nonimmigrant to continue or complete the same event or activity for which he or she was admitted, plus an additional 10 days.

9 FAM 402.13-9 ISSUING O VISAS

9 FAM 402.13-9(A) Effect of an Approved Petition on Visa Adjudication

(CT:VISA-713; 11-30-2018)

- a. An approved petition is considered prima facie evidence that the requirements for visa classification, which are examined by a USCIS adjudicator during the petition process, have been met. However, the approval of a petition by USCIS does not relieve the alien of the burden of establishing visa eligibility. While the majority of petitions are valid, you should confirm that the facts in the petition are true during the visa interview. Remember that DOL and USCIS interact solely with the petitioner; the interview is the first point during the petition-based visa process where a USG representative has the opportunity to interact with the beneficiary of the petition. Additionally, consular officers overseas benefit from cultural and local knowledge that adjudicators at USCIS do not possess, making it easier to spot exaggerations or misrepresentation in qualifications.
- b. You must suspend action on an alien's application and submit a report to the approving DHS office if you know or have reason to believe that an alien applying for a visa under INA 101(a)(15)(O) is not entitled to the classification as approved. For more information on refusing O visas see [9 FAM 402.13-10](#).

9 FAM 402.13-9(B) Verifying Petition Approval

(CT:VISA-713; 11-30-2018)

- a. PIMS or the Person Centric Query Service (PCQS) are the sources of confirmation for you that a petition for a visa has been approved. Posts may use approved Form I-129 and Form I-797 presented at post as sufficient proof to schedule an appointment, or may schedule an appointment based on the applicant's confirmation that the petition has been approved, but only PIMS or PCQS is sufficient evidence for visa adjudication.
- b. The PIMS Petition Report is listed in the CCD under a sub-category of the NIV menu called "NIV Petitions." The PIMS Petition Report contains a record of all petitioners recorded by the KCC as having approved petitions since 2004. In addition, the KCC FPU has provided informational memos on a large percentage of these petitioners. Each new, approved petition is linked to a base petitioner record, allowing tracking of NIV petitioner and petition information.
- c. If PIMS does not contain the petition approval, before sending an email to KCC, post has the option to look for petition approval in PCQS in the CCD under the Cross Applications tab. In PCQS, under Search Criteria, select Receipt Number; then enter the number; e.g., EAC1234567890. First, search CISCOR to find the petition, but if not found in CISCOR, you should also check CLAIMS 3. If post finds a petition approval in PCQS that was not in PIMS, the post should send an email to PIMS@state.gov as follows: "Petition with Receipt Number EAC1234567890 was found in PCQS but not in PIMS". You may not authorize a petition-based NIV without verification of petition approval either through PIMS or PCQS.

- d. If you are unable to immediately locate information on a specific petition either through PIMS or PCQS, you must send an email to PIMS@state.gov. KCC's FPU will research approval of the petition and, if able to confirm its approval, will make the details available through the CCD within 2 working days. You may submit your request to KCC only within five (5) working days of the scheduled interview date and you must have checked PIMS before submitting a request to KCC. KCC will check the USCIS CLAIMS database, and will upload the CLAIMS report into PIMS so that you can proceed with the scheduled interview. KCC will not process PIMS requests submitted by post prior to the five day window.

9 FAM 402.13-9(C) Validity of O Visas

(CT:VISA-310; 03-21-2017)

The validity of an O visa may not exceed the period of validity of a petition approved to accord O status. If the period of reciprocity shown in the reciprocity schedules is less than the validity period of the approved petition or extension of stay, the period of lesser validity prevails.

9 FAM 402.13-9(D) Issuing a Single O Visa Based on More Than One Petition

(CT:VISA-713; 11-30-2018)

If the alien is the beneficiary of two or more O petitions and does not plan to depart from the United States between engagements, you may issue a single O visa valid until the expiration date of the last expiring petition, reciprocity permitting. The required annotations (see [9 FAM 402.13-9\(F\)](#)) from all petitions must be placed on the visa.

9 FAM 402.13-9(E) Limiting O Visas

(CT:VISA-713; 11-30-2018)

You may restrict visa validity in some cases to less than the period of validity of the approved petition or authorized period of stay (for example, on the basis of reciprocity or the terms of an order waiving a ground of ineligibility). In any such case, in addition to the annotations described in [9 FAM 402.13-9\(F\)](#), insert the following:

"PETITION VALID TO (Date)".

9 FAM 402.13-9(F) Annotating O Visas

(CT:VISA-713; 11-30-2018)

You must annotate the number of the alien's approved petition (or the number of the principal alien's petition in the case of O-3 dependents) on the visa, followed by the name and location of the alien's employer. Follow the standard operating instructions for annotating visas; for more details see [9 FAM 403.9-5\(E\)](#).

9 FAM 402.13-9(G) Reissuing O Visas

(CT:VISA-713; 11-30-2018)

When an O visa is limited by reciprocity to a period of validity less than the validity of the petition or authorized period of stay, you may use the same, still-valid petition in order to issue the applicant a new visa any number of times within the allowable period. If a fee is prescribed by the reciprocity schedules, you must collect the fee for each reissuance of the O visa.

9 FAM 402.13-10 REFUSING O VISAS

(CT:VISA-713; 11-30-2018)

- a. **Applying 214(b):** An O-1 applicant is presumed to be an immigrant until he or she establishes to your satisfaction that he or she is entitled to O-1 nonimmigrant status, and the standards for applying 214(b) described in [9 FAM 302.1-2\(B\)\(3\)](#) apply to O-1 applicants. Under 8 CFR 214.2(o)(13), a "temporary" intent to remain in the United States is a requirement for O-1 classification. However, an applicant for an O-1 visa does not have to have a residence abroad which he or she does not intend to abandon. Further, as explained in [9 FAM 402.13-5\(B\)](#) above, "dual intent" is permissible for O-1 visa holders. These same standards apply to O-3 aliens accompanying the O-1 principal applicant.
- b. Unlike the O-1 nonimmigrant, the O-2 visa applicant must satisfy you that he or she has a residence abroad and no intent to abandon that residence. This same standard applies to O-3 aliens accompanying the O-2 principal applicant.
- c. Referring Approved O Petition to USCIS for Reconsideration: For guidance on sending a petition to USCIS for reconsidering, please refer to [9 FAM 601.13](#).

9 FAM 402.13-11 SPOUSE AND CHILDREN OF O-1 OR O-2 ALIENS

(CT:VISA-310; 03-21-2017)

- a. The spouse and children of an O-1 or O-2 alien, who are accompanying or following to join in the United States, are entitled to O-3 classification and are subject to the same visa validity, period of admission, and limitations as the O-1 or O-2 principal alien. For a general discussion of the classification of the spouse and children of a nonimmigrant, see [9 FAM 402.1-4](#) and [9 FAM 402.1-5](#).
- b. **Employment Prohibited:** Aliens in O-3 status are generally not authorized to accept employment. The spouse and children of an O principal alien may not accept employment unless they qualify independently for a classification in which employment is, or can be, authorized. You must take this into account in evaluating whether family members have furnished adequate evidence of their support while in the United States. O-3 aliens are permitted to study during their stay in the United States.
- c. **Verification that Principal Alien is Maintaining Status:** When an alien applies for an O-3 visa to follow to join a principal alien already in the United States, you must be satisfied that the principal alien is maintaining O status before issuing the

visa. If there are no readily available means of verification, you may suggest to the applicant that the principal alien in the United States submit a copy of his or her Form I-94, Arrival and Departure Record, (if the principal alien received a paper I-94, copies of both sides must be submitted) and a copy of his or her current visa for presentation to you. You may also wish to check PIMS and ADIS for arrival and departure information, if available.

9 FAM 402.13-12 RETURN TRANSPORTATION WHEN EMPLOYMENT INVOLUNTARILY TERMINATED

(CT:VISA-1; 11-18-2015)

If an O nonimmigrant's employment terminates for reasons other than voluntary resignation, the employer and petitioner who sought the alien's O status are responsible for providing the reasonable cost of the alien's transportation to his or her last place of residence prior to entry into the United States.

O-1 Extraordinary Ability Visa Information Sheet

Full Legal Name:

All other names used:

*(Include maiden name,
model name, nicknames, etc.)*

Address outside of the U.S.:

Have you previously held a U.S. working visa?

Yes

No

U.S. Address:

(If present visa holder)

Social Security Number:

(If present visa holder)

WORK HISTORY

**For each category, focus on your jobs from the last three years.
Include the most famous clients first.**

Editorial (Include Press About You)

Publication Name	Country	Check if you were on the cover.	Date Published (Month and year)
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			

Editorial (Continued)

Publication Name	Country	Check if you were on the cover.	Date Published
9.			
10.			

Advertising Campaigns

Client Name	Date (MM/YY)	Agency That Booked
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Catalogue/Ecommerce/Lookbook/Social Media

Client Name	Date (MM/YY)	Agency That Booked	Type (Catalogue/ecom/lookbook/social)
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

Runway Shows

Client Name	Date (MM/YY)	Country	Agency That Booked
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

Commercials (Include video productions)

Client Name	Date (MM/YY)	Country	Agency That Booked
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

September 18, 2018

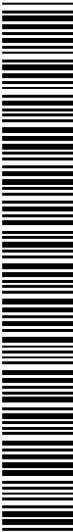
U.S. Department of Homeland Security

U.S. Citizenship and Immigration Services
Vermont Service Center
30 Houghton St (VSC Premium Processing)
St. Albans, VT 05478-2399



**U.S. Citizenship
and Immigration
Services**

Beneficiary:
I-129, Petition for a Nonimmigrant Worker



PREMIUM PROCESSING

IMPORTANT: THIS NOTICE CONTAINS YOUR UNIQUE RECEIPT NUMBER. THIS PAGE MUST BE SUBMITTED WITH THE REQUESTED EVIDENCE.

You are receiving this notice because U.S. Citizenship and Immigration Services (USCIS) requires additional evidence to process your form. Please provide the evidence requested on the attached page(s). Include duplicate copies if you are requesting consular notification.

Your response must be received in this office by December 14, 2018.

Please note that you have been allotted the maximum period allowed for responding to a Request for Evidence (RFE). The time period for responding cannot be extended. See Title 8 Code of Federal Regulations (8 CFR), Section 103.2(b)(8)(iv). Because many immigration benefits are time sensitive, you are encouraged to respond to this request as early as possible, but no later than the deadline provided above. If you do not respond to this notice within the allotted time, your case may be denied. The regulations do not provide for an extension of time to submit the requested evidence.

You must submit all requested evidence at the same time. If you submit only some of the requested evidence, USCIS will consider your response a request for a decision on the record. See 8 CFR 103.2(b)(11).

If you submit a document in any language other than English, the document must be accompanied by a full and complete English translation. The translator must certify that the translation is accurate and he or she is competent to translate from that language to English. **If you submit a foreign language translation in response to this request for evidence, you must also include a copy of the foreign language document.**

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Processing of your form or benefit request will resume upon receipt of your response. If you have not heard from USCIS within **60 days of responding**, you may contact the USCIS Contact Center (UCC) at **1-800-375-5283**. If you are hearing impaired, please call the UCC TDD at **1-800-767-1833**.

I-129 O-1B Extraordinary Ability in the Arts

You, [REDACTED], the petitioner, filed Form I-129, Petition for Nonimmigrant Worker, seeking O-1B nonimmigrant classification for [REDACTED] as a Fashion Model.

The O-1B classification applies to individuals with extraordinary ability in the arts. The individual must have sustained national or international acclaim. His or her achievements must be in the field of expertise and show a record of prominence in his or her field.

To process your petition and determine if the beneficiary is eligible, additional information is required. This request provides suggested evidence that you may submit to satisfy each requested item. You may:

- Submit one, some, or all of these items.
- Submit none of the suggested items and instead submit other evidence to satisfy the request.
- Explain how the evidence in the record already establishes eligibility.
- Request a decision based on the record.

Note, however, that you are responsible for providing evidence that best shows that you and the parties to this petition meet all requirements. Evidence must show that all parties were eligible for the requested benefit when you filed Form I-129.

Evidence of Extraordinary Ability in the Field of Arts

You must show that the beneficiary has recognition for being prominent in the field of endeavor. To demonstrate this, you may submit documentation to show the beneficiary was nominated for, or a recipient of, a significant, national or international award or prize in the particular field. Examples of this could include an Academy Award, an Emmy, a Grammy, or a Director's Guild Award. Alternatively, you may show that the beneficiary satisfies at least three of the six criteria discussed below.

Evidence of a Significant National or International Award or Prize

You did not submit any evidence for this option. You may still submit evidence to satisfy it.

Evidence that can help us determine that the award is a significant, nationally or internationally recognized award may show:

- That the award is nationally or internationally recognized;
- The criteria used to grant the award;
- The significance of the award in the field;
- The reputation of the organization or the panel granting the award;
- Previous winners of the award who held international acclaim at the time of receiving the award; and
- How the award attracts competition from recognized individuals in the field such as an



Academy Award, an Emmy, a Grammy, or a Director's Guild Award.

Alternatively, you may attempt to show the beneficiary has demonstrated extraordinary ability in the field of arts by providing evidence to satisfy at least three of the criteria below.

Qualifying Criteria

If you choose not to submit evidence of a one-time award, you may submit documentation of at least three of the criteria in this section.

The beneficiary does not appear to satisfy three of the six criteria to show extraordinary ability. You may still submit evidence to satisfy criteria in this section. The documentation you provide should show the beneficiary has a demonstrated record of extraordinary ability.

To satisfy these requirements, you submitted:

1. A copy of the I-129 petition;
2. A cover letter;
3. A peer letter from [REDACTED];
4. A management agreement;
5. An itinerary of events;
6. Social media information for various organizations;
7. Information on social media and the fashion industry, generally;
8. Screenshots from music videos showing the beneficiary;
9. Screenshots from various websites showing the beneficiary;
10. Screenshots from *Instagram*;
11. Past invoices from [REDACTED] for the beneficiary;
12. Past invoices from [REDACTED] for other models;
13. Information from the internet about various fashion magazines, and
14. Information from the internet about various fashion retailers.

Lead or Starring Participant in Distinguished Productions or Events

You may submit evidence showing the beneficiary has performed in the past, and will perform in the future, in productions or events with distinguished reputations. For this criterion, you must also show that the beneficiary has played and will play a leading or starring role in those productions or events.

The evidence you submitted is insufficient.

You provided documentation that the beneficiary has modeled for several fashion retailers and for [REDACTED]. It also appears that the beneficiary has modeled on the runway for [REDACTED]. However, it does not appear that the beneficiary was a lead or starring participant in these events. Furthermore, it does not appear that modeling for brands such as [REDACTED] and [REDACTED], are distinguished events. Also, it appears that the beneficiary has appeared as an actress in two music videos. However, it does not appear that these music videos are distinguished events and you have not established that modeling is equivalent to fashion modeling.

Further, you must also show the beneficiary will perform in the future in lead or starring role for distinguished productions and events. Although the itinerary indicates the beneficiary is projected to model for brands such as [REDACTED], among others, you did not provide sufficient evidence to establish that the beneficiary will perform in a lead or starring role at these events. Note that appearing in an online catalog as one of many models does not necessarily show the

beneficiary will perform in a lead or starring role.

Lastly, to satisfy this criterion, you must submit evidence that the beneficiary will perform, in the future, in a lead or starring role for productions or events with distinguished reputations. USCIS acknowledges that you submitted an itinerary of proposed events. However, since the itinerary consists of only possible events, you must submit additional evidence establishing that the proposed employment is not speculative. As a result, the beneficiary's claimed future employment with the organizations and entities listed on the itinerary is insufficient to satisfy this criterion.

You may still submit evidence to satisfy this criterion.

Evidence may include, but is not limited to:

- Written reviews from critics;
- Advertisements or publicity releases;
- Publications contracts;
- Letters of reference or employment verifying that the beneficiary served in a lead or starring role in a distinguished production;
- IMDB (Internet Movie database) printouts confirming the beneficiary's leading or starring role;
- Nomination or receipt of an award or prize for beneficiary's role in the production;
- Endorsements;
- Materials from trade journals; and
- Magazine articles.

National or International Recognition

You may submit evidence showing the beneficiary has achieved national or international recognition for his or her achievements.

For evidence to meet the plain language of this criterion the documentation must be in the form of critical reviews or other published material by or about the beneficiary; the record must establish that the beneficiary has specific achievements, and the beneficiary must have received national or international recognition for those achievements. Further, the documentation must be in the form of published material that has been published in the type of major sources that could afford the beneficiary the requisite level of recognition.

The evidence you submitted is insufficient.

You provided evidence that the beneficiary has appeared in several magazines: [REDACTED] magazine and [REDACTED] magazine. However, you have not established that these are major publications. Although it also appears that the beneficiary has modeled clothing and other goods online as an online shopping model, you have not established that this type of modeling is equivalent to a critical review or other published material by or about the beneficiary.

Evidence may include, but is not limited to, critical reviews or other published materials by or about the beneficiary in:

- Major newspapers (include circulation figures);
- Major trade journals;
- Major magazines; and
- Other publications.



Note: Circulation information should be specific to the media format in which it was published. For example, if the article was published online, the evidence must relate to the website. If it was published in print, the evidence must relate to the printed publication.

Lead, Starring, or Critical Role for Distinguished Organizations and Establishments

You may submit evidence showing the beneficiary has performed in the past, and will perform in the future, for organizations and establishments that have distinguished reputations. For this criterion, you must also show that the beneficiary has played, and will play, a lead, starring, or critical role for those organizations and establishments.

Please note that evidence to satisfy this criterion must be presented in a prescribed form, which includes articles in newspapers, trade journals, publications, or testimonial letters. Also, USCIS notes that this criterion speaks directly to the function, role, and services the beneficiary provides for the organizations and establishments themselves and not the associated events or productions with these organizations and establishments.

The evidence you submitted is insufficient.

Although it appears that the beneficiary has appeared in fashion shows on the runway for [REDACTED] [REDACTED] you have not established that she played a critical role or was a lead or star for this organization, or that [REDACTED] is a distinguished organization. Although the beneficiary has appeared in magazines and as an online model for various retailers, it does not appear that she was the lead or star for these organizations as a whole.

Lastly, to satisfy this criterion, you must submit evidence that the beneficiary will perform, in the future, a critical role or will be a lead or star for distinguished organizations. USCIS acknowledges that you submitted an itinerary of proposed events in which you indicate the beneficiary will engage.

The itinerary indicates the beneficiary is projected to model for [REDACTED] [REDACTED] among others. However, you did not provide sufficient evidence to establish that the proposed employment is not speculative. As a result, the beneficiary's projected future employment with the organizations listed on the itinerary is insufficient to satisfy this criterion.

Lastly, you have not established that the beneficiary will be critical to the entities listed on the itinerary. You have provided insufficient evidence to show that the beneficiary will perform in a leading, starring, or critical role for these organizations. Evidence in the record indicates that the beneficiary's role will be that of "fashion model." You have not established that "fashion model" is a lead, starring, or critical role.

You may still submit evidence to satisfy this requirement.

Evidence may include, but is not limited to:

- Newspaper articles or other published materials about the beneficiary and the organizations and establishments where he or she has performed and will perform;
- Trade journals;
- Publications; and
- Testimonials.

Note: Letters and testimonials should provide as much detail as possible about the beneficiary's

achievements in the field and give the credentials of the author, including the basis of his or her knowledge of the beneficiary's role.

Commercial or Critically Acclaimed Successes

You may submit evidence showing the beneficiary has a record of major commercial or critically acclaimed successes.

You did not submit any evidence for this option in the form of titles, ratings, other evidence of overall standing in the field, box office receipts, motion picture or television ratings, chart ratings or other evidence of occupational achievements as reported in trade journals, major newspapers or other publications. It does not appear that the beneficiary has been specifically mentioned in trade journals, major newspapers or other publications.

You may still submit evidence to satisfy it.

Evidence may include, but is not limited to:

- Title, rating, standing in the field;
- Box office receipts;
- Motion picture or television ratings;
- Chart ratings; and
- Other evidence of occupational achievements reported in trade journals, major newspapers or other publications.

Significant Recognition

You may submit evidence showing the beneficiary received significant recognition for achievements from organizations, critics, government agencies, or other recognized experts in the field of endeavor.

You did not submit any evidence for this option. You may still submit evidence to satisfy it.

Evidence may include, but is not limited to testimonials from experts in the field which clearly indicate the author's authority, expertise, and knowledge of the beneficiary's achievements.

Remuneration

You may submit evidence showing the beneficiary has commanded, now commands, or will command a high salary or other substantial remuneration.

You did not submit any evidence for this option. Although you submitted invoices that show that the beneficiary has earned between [REDACTED] per day, you also submitted invoices from other models represented by you that show that they earn between [REDACTED] per day. Therefore, it appears that the beneficiary's salary is average compared to other models and does not appear to be high relative to that of others working in the field.

You may still submit evidence to satisfy this criterion.

Evidence to establish whether the beneficiary's compensation is high relative to that of others working in the field may take many forms. Examples may include, but are not limited to:

- Copies of contracts or similar reliable evidence;
- Documents showing the beneficiary received a high salary or other significant forms of compensation for services in comparison to others in the field, which may include equity in lieu of cash;
- A statistical comparison of the salaries in the beneficiary's field, from a government or private institution or a similar organization. This should show that the beneficiary commanded a high salary or other significantly high remuneration for services compared to others in the field.
- Geographical or position-appropriate compensation surveys and organizational justifications to pay above the compensation data;
- The Bureau of Labor Statistics (BLS): <http://www.bls.gov/bls/blswage.htm>;
- The Department of Labor's Career One Stop website:
http://www.careeronestop.org/SalariesBenefits/Sal_default.aspx;
- The Department of Labor's Office of Foreign Labor Certification Online Wage Library:
<http://www.flcdatacenter.com>;
- Testimony from industry experts;
- Other corroborative evidence showing that the wage rate is high relative to others working in the field.

Note: U.S. Department of Labor (DOL) prevailing wage rate information alone does not generally establish the salary or other remuneration is "significantly" higher than others in the field. If you submit DOL prevailing wage rate information, you should submit additional evidence showing that the wage rate is high relative to others working in the field (such as the examples above).

Comparable Evidence

If the preceding achievement criteria did not readily apply to the beneficiary's occupation, you may submit comparable evidence to establish the beneficiary's eligibility. You should indicate why the criteria do not apply to the occupation.

When submitting comparable evidence, you should explain:

- How the regulatory criteria is not applicable to the beneficiary's occupation; and
- Why the evidence you submitted is "comparable" to the applicable regulatory requirement.

Please return the requested information and all supporting documents with this original request on top. Responses for Premium Processing cases may be faxed to (802)-860-6900 or mailed to:

U.S. CITIZENSHIP AND IMMIGRATION SERVICES
VERMONT SERVICE CENTER
30 HOUGHTON ST
ST ALBANS VT 05479

The Premium Processing e-mail address (vsc-premium.processing@dhs.gov) may only be used for inquiries. Do not send responses to the e-mail address.