On behalf of Association of Performing Arts Presenters, Dance/USA, League of American Orchestras, North American Performing Arts Managers and Agents, OPERA America, Performing Arts Alliance, Tamizdat, and Theatre Communications Group, we are writing in response to the request for comments posted by U.S. Citizenship and Immigration Services (USCIS) for the draft Request for Evidence template for O-1B Extraordinary Ability in the Arts. Descriptions of the involved organizations are attached.

We are dedicated to improving opportunities for international cultural exchange. As an industry, the performing arts fields many inquiries from, and provides technical assistance to, U.S.-based arts organizations and artist managers from all regions of the country and in communities of all sizes undertaking the O and P visa petition process. Bringing foreign artists to perform in the U.S. enables American audiences to experience a diversity of artistic talent and encourages a supportive climate for U.S. artists to perform abroad.

We applaud USCIS for providing this opportunity for the public to submit feedback on draft memoranda and templates. We firmly believe that opportunities for international cultural exchange will be improved if U.S.-based organizations and foreign artists regain confidence in the artist visa process. Following years of lengthy processing times, and unpredictable issuances of Requests for Evidence (RFE) and petition denials, the process of re-building trust in the visa system is likely to take time, and will require ongoing stewardship by USCIS. Confidence in the artist visa process will only be rebuilt if both the timeframe for processing visa petitions is consistently reasonable, and the quality and predictability of adjudication improves.

It is our hope that the RFE template effort underway will contribute to improved predictability in both the visa petition preparation and adjudication processes. In an ideal environment, the petitioners and adjudicators will approach the petition process with a consistent understanding of the requirements for petition preparation and adjudication. Above all, the RFE should be clear, concise, and provide petitioners – most of whom are not represented by U.S. counsel - with guidance that a layman can follow. Accordingly, the RFE templates will be most helpful if they are consistent with publicly available USCIS guidance regarding petition preparation. With that in mind, we offer the following comments and cite corresponding USCIS guidance:

**I-129 O-1B RFE Template**

1. Page 3, Agents. The section addressing “Agents Representing Both the Beneficiary and One or More Employers” section begins with the statement, “A person or company in business as an agent may file the petition involving multiple employers as the representative of both the employers and the beneficiary.” A USCIS memorandum on this topic specifies that the petitioner need only be “in business as an agent” for the purpose of filing the petition, and that “the petitioner does not have to demonstrate that it normally serves as an agent outside of the context of this petition.” 1 To avoid confusion, we recommend striking the phrase “in business as an agent,” or specifying that the person or company may be in business as an agent for the purpose of filing the petition.

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1 November 20, 2009 USCIS memorandum, “Requirements for Agents and Sponsors Filing as Petitioners for the O and P Visa Classifications.”
The same section includes a bullet point regarding, “Evidence of authorization to act as an agent on behalf of the beneficiary and all of the entities with whom the beneficiary is contracted to perform the services related to this petition.” We reiterate a recommendation we have made in the past that petitioners would be aided by adding the following, “For example, the petitioner/agent may present a document signed by the beneficiary’s other employers which states that the petitioner is authorized to act in that employer’s place as an agent for the limited purpose of filing the O petition with USCIS.”

The section addressing “A Foreign employer authorizing a United States agent” includes a bullet point regarding “Evidence that you are authorized to accept service of process in the United States on behalf of the foreign employer.” Some clarification of the phrase “service of process” is needed in order for petitioners to understand how this differs from the bullet point regarding “Evidence that you are authorized by the foreign employer to file the petition.”

2. Page 5, Contracts. Under “General Requirements for all O nonimmigrant petitions”, the RFE should specify that the summary of the terms of an oral agreement does not have to be signed by both parties to establish the oral agreement.²

3. Page 6, Consultation. We appreciate the details that describe the various scenarios related to advisory opinions. The draft O-1 RFE template offered for public comment in 2013 failed to notify petitioners that they may respond with alternative documentation if the petitioner can demonstrate that an appropriate peer group, including a labor organization, does not exist, or if the alien seeks readmission to perform similar services within 2 years of the date of a previous consultation.³ The current draft RFE template now includes these details and clarifies that if a petitioner responds with a non-labor consultation, and a relevant labor group exists, USCIS will seek a labor consultation “which may increase the processing time of the petition.” We support these clarifications.

In addition to the items above, we would like to request that whenever an RFE is issued, the case officer indeed “insert the reason(s) why the evidence listed under this subsection is not sufficient to meet this requirement.” This directive is embedded throughout the template, and yet it has been the experience of many of our members that it is very inconsistently observed.

We appreciate this opportunity to comment, and are also appreciative of the ongoing efforts of USCIS to engage the public in open feedback and dialogue regarding stakeholder concerns. To that end, we hope that this comment opportunity is just one part of an ongoing dialogue regarding the RFE process. We look forward to further communication with USCIS as new templates are implemented and as petitioners report their resulting experiences.

Sincerely,

Association of Performing Arts Presenters
Dance/USA
League of American Orchestras
North American Performing Arts Managers and Agents
OPERA America
Performing Arts Alliance
Tamizdat
Theatre Communications Group

² [www.uscis.gov](http://www.uscis.gov), Temporary Workers, O-1 Visa – Individuals with Extraordinary Ability or Achievement, Application Process O-1 Visa, Contract between Petitioner and Beneficiary.
³ [www.uscis.gov](http://www.uscis.gov), Temporary Workers, O-1 Visa – Individuals with Extraordinary Ability or Achievement, Application Process O-1 Visa, Exceptions to the Consultation Requirement.
Organization Descriptions for Signatories
Comments on Draft RFE Template for O-1B Extraordinary Ability in the Arts

Association of Performing Arts Presenters
Founded in 1957, the Association of Performing Arts Presenters (Arts Presenters) is the largest service and advocacy organization for the presenting and touring field in the United States. With more than 1,700 members worldwide, Arts Presenters represents colleges and universities; performing arts centers; regional, state, and local arts agencies; festivals; historic theaters; community centers, artists and artists managements. Arts Presenters is committed to increasing community participation, promoting global cultural exchange and fostering an environment for the performing arts to thrive. A leader in the field, Arts Presenters works to effect change through professional development, resource sharing and civic engagement.

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Dance/USA
Dance/USA, the national service organization for not-for-profit professional dance, seeks to advance the art form by addressing the needs, concerns and interests of professional dance. To fulfill its mission, Dance/USA offers a variety of programs for the membership and arts community, including data research and regional professional development, as well as works with organizations within and outside the arts field with whom common goals are shared. Dance/USA’s membership currently consists of over 400 ballet, modern, ethnic, jazz, culturally specific, traditional and tap companies, dance service and presenting organizations, artist managers, individuals, and other organizations nationally and internationally. Dance/USA’s member companies range in size from operating budgets of under $50,000 to over $30 million.

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League of American Orchestras
The League of American Orchestras leads, supports, and champions America’s orchestras and the vitality of the music they perform. Its diverse membership of more than 2,000 organizations and individuals across North America runs the gamut from world-renowned symphonies to community orchestras, from summer festivals to student and youth ensembles, from businesses serving orchestras to individuals who love symphonic music. Founded in 1942 and chartered by Congress in 1962, the League links a national network of thousands of instrumentalists, conductors, managers and administrators, board members, volunteers, and business partners.

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North American Performing Arts Managers and Agents
The North American Performing Arts Managers and Agents (NAPAMA) is a not-for-profit service organization, founded in 1979 and dedicated to promoting the professionalism of its members and the vitality of the performing arts. NAPAMA promotes the mutual interests of its members, their work with presenting organizations, government agencies, unions and other organizations serving the performing arts locally, nationally and internationally.

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OPERA America
OPERA America leads and serves the entire opera community, supporting the creation, presentation, and enjoyment of opera. Artistic services help opera companies and creative and performing artists to improve the quality of productions and increase the creation and presentation of North American works. Information, technical, and administrative services to opera companies reflect the need for strengthened leadership among staff, trustees, and volunteers. Education, audience development, and community services are designed to enhance all forms of opera appreciation. Founded in 1970, OPERA America’s worldwide membership network includes nearly 200 Company Members, 300 Affiliate and Business Members, 2,000 Individual Members, and 11,000 subscribers to the association’s electronic news service.

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Performing Arts Alliance
Founded in 1977, the Performing Arts Alliance (PAA) is a 501c4 multi-disciplinary coalition of 15 national service organizations from the professional nonprofit performing arts field. Through legislative and grassroots action, PAA advocates before Congress and key policymakers for national policies that recognize, enhance, and foster the contributions the performing arts make to America. The PAA network includes over 3,000 artists, ensembles, organizations, and supporters. PAA members include Alternate ROOTS, American Composers Forum, Association of Performing Arts Presenters, Chamber Music America, Chorus America, Dance/USA, Fractured Atlas, League of American Orchestras, National Alliance for Musical Theatre, National Association of Latino Arts and Cultures, National Performance Network, Network of Ensemble Theaters, New Music USA, OPERA America, and Theatre Communications Group.

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Tamizdat
Founded in 1998, Tamizdat is a 501(c)(3) non-profit organization that facilitates international cultural exchange. It is involved with a wide range of activities, including festival showcases, tours, media distribution, education, and performing artist visa assistance. Each year, Tamizdat plays a critical role in bringing nearly 6,000 performing artists to the U.S.

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Theatre Communications Group
Theatre Communications Group (TCG), the national organization for the American theatre, offers a wide array of services in line with our mission: to strengthen, nurture and promote the professional not-for-profit American theatre. As the U.S. Center of the International Theatre Institute, a worldwide network, TCG supports cross-cultural exchange through travel grants and other assistance to traveling theatre professionals. TCG seeks to increase the organizational efficiency of our member theatres, cultivate and celebrate the artistic talent and achievements of the field, and promote a larger public understanding of and appreciation for the theatre field. TCG serves nearly 500 member theatres nationwide.

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