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

League of American Orchestras & Tamizdat
January 29, 2021

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

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

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

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

Accommodation: Under the accommodation, USCIS will reduce the I-290B fee to $250, and reopen qualifying petitions and reconsider an amendment of the petition’s applicable visa validity period if:

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

¹ This estimation is based on the number of I-129 O and P visas reported by USCIS as approved in 2020, with consideration given to estimated numbers of specific visa classifications (for example, O-1A versus O-1B) and durations (long term versus short term validity periods.)
(b) a revised I-129 Page 5 reflecting the dates defining the new validity period sought;
(c) either (i) the union or peer group consultation initially included with the original I-129, if its issue
date is no more than two years prior to the date of filing of the I-290B related to an O petition, or
(ii) a new union or peer group consultation, covering the new employment; and
(d) new evidence of *bona fide* employment based on the requested dates in the newly submitted I-129
page 5 that meets the relevant USCIS standard for I-129 adjudication. For itinerary-based
petitions, petitioner must also submit a new itinerary of engagements that meets the relevant
USCIS standard for I-129 adjudication.

(3) The beneficiary or beneficiaries needed for the new employment period are identical to those included in
the initially filed petition;

(4) The validity period sought is no longer than what was sought in the initially filed petition; and

(5) No readily available preponderance of evidence indicates that the type of new employment is substantially
dissimilar from the type of employment represented in the original I-129 petition.

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

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

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

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

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

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