

# ARTIST VISA GUIDE

## The Artist Visa Guide for work in the US

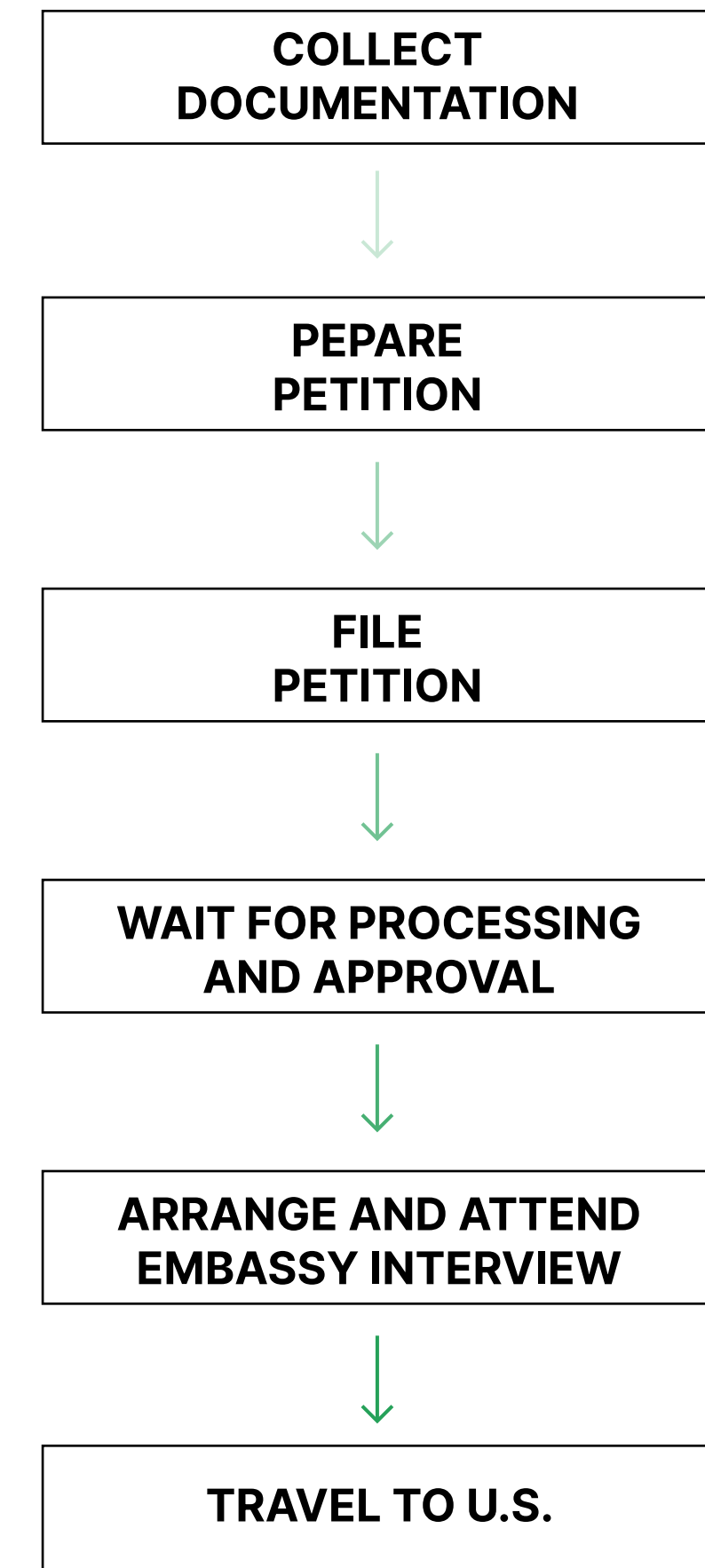
Information to help artists obtain an O-1  
visa to tour in the United States.

**This project has been brought to you by BASEMENT (New York),  
Resident Advisor and Wire Festival (New York).**

The FAQ was prepared in April 2024 with the assistance of David Amar, Esq., an immigration attorney and general counsel of the artist support agency Fanfare Projects. No information contained in this FAQ should be construed as legal advice; legal advice can be provided only in the course of an attorney-client relationship with reference to all the facts of a specific situation.

# Obtaining an O-1 visa for DJ's and DJ/Producers

In order to work/perform as a DJ in the US, in nearly all circumstances—even if you're not getting paid—you will require a work visa. The most common type of visa for DJs or DJ/Producers is the O-1, for "Artists of Extraordinary Ability." While there are certain other visa options, this guide to obtaining a visa will focus on the O-1, and should not be taken as legal advice, only general information to help you orient yourself with the process and how to be organized when you take this step in your career.



# 01. Gather Documentation to Establish Extraordinary Ability

- United States Citizenship and Immigration Services (USCIS), the government organization in charge of reviewing artist visa petitions, will need to see evidence of your career to date. You can think of this as an expanded resume or CV detailing all of your professional experiences and accomplishments as an artist.
- Before you start work on a visa petition, the first step is to get all possible documentation organized. USCIS does not accept audio or video documentation, so you should begin by collecting links to every website, blog, or magazine that has written about your musical career, including critical reviews, tour announcements, and any other relevant online mentions.
- Gather any awards or recognitions you've received throughout your career. This could include awards for your DJ skills, music production, or contributions to the music industry.
- Finally, because live performances will be a big part of the petition, it's very important to have a comprehensive list of past shows you've played, including links to listings, flyers/posters, and/or contracts for as many previous shows as possible.
- Eventually, you'll need to ask colleagues or mentors to write letters describing your contributions to the DJing community, your professional accomplishments/achievements, and your impact on the industry.
- Essentially, your goal is to present a comprehensive picture of your career, your extraordinary talent and your achievements as a DJ.

# 01. Frequently Asked Questions

## Gather Documentation to Establish Extraordinary Ability

### **1. What qualifies as evidence of extraordinary ability for an O-1 visa application for an artist or musician?**

Evidence must demonstrate the applicant's national or international acclaim and recognition in their field. This could include major awards or prizes, press about their work, participation in notable productions and events or for notable organizations and establishments, critical and/or commercial success, significant contributions to their field, testimonials from recognized experts in the field, or high salary relative to others in the field.

### **2. How many pieces of evidence are required to prove extraordinary ability?**

While there is no specific number of documents required, USCIS requires that the applicant provide evidence that meets at least three of the criteria they list for demonstrating extraordinary ability, or in the alternative, evidence of a major award win or nomination (Grammy award or equivalent). The quality of evidence is often more important than the quantity.

### **3. Can letters of recommendation or expert opinions be included as part of the documentation?**

Yes, testimonial letters from peers, government officials, or other experts in the field who can attest to the applicant's achievements are highly valuable.

### **4. Is it necessary for the documentation to be recent?**

While documentation will necessarily reflect past achievements, it's important that the evidence collectively demonstrates the applicant's current standing as extraordinary in their field and "sustained acclaim." This means recent documentation and documentation going as far back in time as practical.

### **5. How do I document my salary or earnings to show extraordinary ability?**

Documentation can include contracts, pay stubs, or other evidence of remuneration that demonstrates high earnings in comparison to others in the field. Comparative studies or expert statements can also help contextualize the significance of the compensation. Essentially, your goal is to present a comprehensive picture of your career, your extraordinary talent and your achievements as a DJ.

# 01. Frequently Asked Questions

## Gather Documentation to Establish Extraordinary Ability

### 6. How important is the presentation of the documentation?

Organization and clarity in presenting your documentation are crucial. A well-prepared petition that logically arranges evidence to tell a compelling story of your extraordinary ability will likely have a greater impact.

### 7. How should I prepare this documentation?

The documentation is eventually mailed in physical copy to USCIS, so the best way to gather evidence for your petition is to compile clear screenshots of evidence like press (showing the publication name, date, and author), listing and flyers for past performances, credits for past production work, metrics like Spotify, Beatport, or YouTube statistics, contracts for past work, letters of intent, and anything else you think might help to support your case. Because live performances will be a big part of any performer's petition, it's very important to have a comprehensive list of past shows you've played, including links to listings, flyers/posters, and/or contracts for as many previous shows as possible. If you are working with an attorney or other immigration professional, they will likely want to see an organized list of links to any online resources and material so that they can present according to their preferences.

### 8. Can I send audio or video recordings?

No. Unfortunately, USCIS only accepts hard-copy evidence, so for example, while a screenshot of a YouTube video that clearly shows millions of views can be acceptable, USCIS will not accept a simple link to the video.

## 02. Obtain Job Offer(s) or an Agent

- The USCIS only grants work visas to individuals who have real opportunities to work in the U.S.
- This means that you will need either an agent who will book you U.S. shows, or any number of U.S. employers. Your U.S. employer could be a nightclub, event promoter, or any entity that plans to engage your DJing services.
- The O-1 visa can be valid for a maximum period of three years; in order to have it last the maximum amount of time, you'll need to prove to the USCIS that you will have regular opportunities to work/perform. You can do this by organizing contracts or agreements with your U.S. employer(s) or agent, which you will need to include in the final visa petition.
- You will also need to find a "petitioner" (also called "sponsor") to file the petition; any U.S. citizen or U.S. company can be your petitioner. It does not necessarily need to be your employer or agent.
- This is the stage where it is in your best interest to decide on proper representation or a preparer for the petition. This usually means a qualified immigration lawyer, petitioning agent, or a U.S. employer who has experience with the visa process.

# 02. Frequently Asked Questions

## Obtain a Petitioner, Employment Offer(s) and/or an Agent

### **1. Why is an employment offer or an agent necessary for an O-1 visa application?**

An offer of employment is essential because the O-1 visa is a non-immigrant employment-based visa category. It requires the applicant to have a specific job or project in the U.S. that necessitates their extraordinary abilities. Alternatively, an immigration agent or booking/talent agent can act on behalf of both the beneficiary (the O-1 visa applicant) and the employer, especially if the work involves multiple engagements or employers.

### **2. Is an employer the same thing as a petitioner, or a sponsor?**

Not necessarily. Every O-1 petition requires a “petitioner” (also called “sponsor”) to file the petition; any U.S. citizen or U.S. company can be your petitioner. Your petitioner does not necessarily need to be your employer or your talent agent. Third party petitioners who are not your employer and are not your talent/booking agent can be a popular option. These are—confusingly—called “agent-petitioners.”

### **3. Can I apply for an O-1 visa without a specific employer if I have multiple job offers in the U.S.?**

Yes, if you have multiple job offers, you can have an agent-petitioner file the petition on your behalf. This must be a U.S.-based agent who agrees to represent you and your employment interests with various employers. Your immigration agent does not necessarily need to be the same person/entity as your talent/booking agent.

### **4. What documentation is required from the petitioner, employer, or agent when applying for an O-1 visa?**

The petitioner must file Form I-129, Petition for Nonimmigrant Worker, on behalf of the applicant. The petition should include a detailed itinerary of the work or events, the terms and conditions of employment, and agreements between the petitioner, applicant, and the employer(s) or evidence of an agent’s authority to act on behalf of the applicant.

### **5. How can I find an agent for my O-1 visa application?**

Applicants can engage with agents through professional networks, industry contacts, or organizations that specialize in representing individuals with extraordinary abilities. It’s important to choose an agent with experience in handling O-1 visa applications and a good understanding of the applicant’s field of work.

# 02. Frequently Asked Questions

## Obtain a Petitioner, Employment Offer(s) and/or an Agent

### **6. What constitutes a valid employment offer for an O-1 visa application?**

A valid employment offer should be in the applicant's field of extraordinary ability and clearly require the applicant's services in the U.S. It must specify the nature of the work, the duration of the work, and other relevant details such as salary and location of employment. For multiple engagements, a detailed itinerary that specifies each engagement's dates, locations, and details must be included.

### **7. Is there a difference between an agent and a traditional employer in the context of an O-1 visa application?**

Yes, an agent can act as a petitioner for the O-1 applicant across multiple engagements, serving as an intermediary between the applicant and various employers. In contrast, a traditional employer sponsors the applicant for a specific job at their company.

### **8. How should the contract or agreement with an agent or employer be structured?**

The contract or agreement should detail the terms of employment, including duties, location of services, compensation, duration, and any other conditions or benefits. It should also specify the agent's role if applicable, including their responsibility for arranging multiple engagements and acting on the applicant's behalf.

### **9. What if my agent or employer withdraws their offer or support during the application process?**

If the employment offer or agent's support is withdrawn before the visa is granted, the O-1 visa petition may be denied. If the relationship between employer/agent and beneficiary ends after the visa is issued, it may affect the applicant's ability to enter or remain in the U.S. under O-1 status, potentially resulting in unauthorized work and unlawful status in the U.S. It's crucial to have a clear understanding and agreement with the employer or agent to mitigate such risks, and to consult with an attorney or immigration professional with experience in the area when encountering circumstances like this.

### **10. Can an O-1 visa be transferred to a new employer or agent?**

If an O-1 visa holder wants to change employers or agents, the new employer or agent must file a new Form I-129 petition with USCIS. The O-1 visa holder cannot start working for the new employer or through the new agent until the petition is approved. Understanding these aspects of obtaining job offers or working with an agent is crucial for navigating the O-1 visa application process effectively. Given the complexity of immigration laws, consulting with an immigration attorney or a professional with expertise in O-1 visas is highly recommended to ensure compliance and the success of the application.



# 03. USCIS Form I-129

- Your petitioner will need to initiate the visa process by filing USCIS Form I-129, Petition for a Nonimmigrant Worker. Form I-129 and the associated supporting documentation is the heart of the visa petition.
- The form requires detailed information about you, your employment or representation, your extraordinary abilities, and ample supporting documentation.

# 03. Frequently Asked Questions

## USCIS Form I-129

### 1. What is USCIS Form I-129?

USCIS Form I-129, Petition for a Nonimmigrant Worker, is the core form submitted to the U.S. Citizenship and Immigration Services (USCIS) by an employer or agent to petition for a foreign national to come to the United States temporarily to perform services or labor, or to receive training, as a nonimmigrant worker. For O-1 visa applicants, it serves as the primary petition document.

### 2. Who needs to file Form I-129 for an O-1 visa application?

The petitioner—either an employer or a U.S.-based agent representing both the employer and the beneficiary (the O-1 visa applicant)—must file Form I-129. In cases where the applicant has multiple employers, an agent can file a single consolidated petition.

### 3. What information is required on Form I-129 for an O-1 visa?

Form I-129 requires detailed information about the petitioner (employer or agent), the beneficiary (the worker applying for the O-1 visa), the terms and conditions of employment, the nature of the work to be performed, a labor union consultation or advisory opinion, and details regarding the beneficiary's qualifications. Specifically for the O-1 visa, it must also include evidence of the beneficiary's extraordinary ability and achievements.

### 4. How far in advance should Form I-129 be filed?

USCIS recommends that Form I-129 be filed at least 45 days before the date of employment but not more than one year prior to the need for the employee to begin work. Processing times vary without warning; the best practice is to file as far in advance as possible in order to avoid complications.

### 5. What supporting documents are required with Form I-129 for an O-1 visa?

Supporting documents include contracts or letters of agreement, an explanation of events and detailed itinerary of the events or activities the beneficiary will participate in, evidence of the beneficiary's extraordinary ability (such as awards, publications, letters from experts), and a written advisory opinion from a peer group or labor organization.

### 6. Is there a filing fee for Form I-129?

Yes, there is a government filing fee for Form I-129, which is subject to change and currently differs based on the petitioner's status (e.g., large company, small business, non-profit, etc.). Applicants should check the USCIS website for the most current fee schedule.

# 03. Frequently Asked Questions

## USCIS Form I-129

### **7. Can Form I-129 be filed electronically?**

At the time of writing, Form I-129 must be filed by mail with the appropriate USCIS service center. Applicants should verify the current filing procedures and location on the USCIS website as policies may change.

### **8. What happens after Form I-129 is filed?**

After Form I-129 is filed, USCIS will review the petition. If additional information or documentation is needed, USCIS may issue a Request for Evidence (RFE). Once the review is complete, USCIS will issue a decision, approving or denying the petition.

### **9. Can the processing of Form I-129 be expedited?**

Yes, for an additional fee, petitioners can file Form I-907 to request Premium Processing Service, which guarantees processing within 15 business days.

### **10. What should be done if Form I-129 is denied?**

If Form I-129 is denied, USCIS will provide the reasons for the denial. The employer or agent may address the reasons for denial and reapply or appeal the decision, depending on the circumstances.

# 04. Supporting Documentation for Form I-129

The supporting documentation to the I-129 will need to include:

- A labor union consultation (discussed below);
- The agreement between you and your petitioner;
- If different from the agreement between you and your petitioner, copies of contracts or agreements with your U.S. employers or your agent demonstrating your intended work in the U.S.;
- A detailed itinerary covering the entire period of time you are requesting the visa for, including the locations where you plan to work; and
- Organized documentation that proves your extraordinary ability, including as much of the following as possible:
  - Proof of your past and future participation as a “lead or starring participant” (i.e., a major or headline role) in important productions or events, including notable albums, festivals, broadcasts, events, etc.;
  - Critical reviews and media coverage that discusses your DJing talents and contributions to the music scene;
  - Proof of your past and future participation as a “lead or starring or critical participant” (i.e., a major or headline role) for important organizations or establishments, including notable venues, labels, companies, etc.;
  - Copies of any awards or accolades received, including certificates or trophies, proof of record sales, inclusion on “best of” lists etc.;
  - Letters of recommendation from prominent figures in the music industry, including fellow DJs, event organizers, or industry experts, providing detailed insights into your impact on the field;
  - Proof that you have been or will be paid highly compared to other DJs in your field; and
  - Other evidence as necessary and applicable to your personal case.

It’s essential to organize the supporting documentation meticulously to make it easy for USCIS to review your achievements. Make sure to take the time to include documentation explaining why your accomplishments are important.

# 04. Frequently Asked Questions

## Supporting Documentation for Form I-129

### 1. What constitutes supporting documentation for Form I-129 in an O-1 visa application for a musician or DJ?

Supporting documentation for an O-1 visa application should include a labor union consultation or advisory opinion, the agreement between beneficiary and petitioner; if different from the agreement between beneficiary and petitioner, copies of contracts or agreements with U.S. employers or an agent demonstrating your intended work in the U.S., a detailed itinerary, and organized documentation that proves extraordinary ability, including but not limited to:

- Proof of your past and future participation as a “lead or starring participant” (i.e., a major or headline role) in important productions or events, including notable albums, festivals, broadcasts, events, etc.;
- Critical reviews and media coverage that discusses your artistry, career and contributions to your field;
- Proof of your past and future participation as a “lead or starring or critical participant” (i.e., a major or headline role) for important organizations or establishments, including notable venues, labels, companies, etc.;
- Copies of any awards or accolades received, including certificates or trophies, proof of record sales, inclusion on “best of” lists etc.;
- Letters of recommendation from prominent figures in the music industry, including fellow DJs, event organizers, or industry experts, providing detailed insights into your impact on the field;

- Proof that you have been or will be paid highly compared to others in your field; and
- Other evidence as necessary and applicable to your personal case.

### 2. How detailed should the evidence of extraordinary ability be?

The evidence should be as detailed and comprehensive as possible, clearly demonstrating the applicant’s national or international recognition and achievements.

### 3. Are letters of recommendation required for all O-1 visa applications?

While not explicitly required, testimonial letters from recognized experts in the applicant’s field are one of the six specific types of evidence that USCIS recognizes, and can significantly strengthen the application by providing third-party validation of the applicant’s extraordinary abilities and achievements.

### 4. Is a contract or letter of agreement necessary for every O-1 visa application?

A contract or letter of agreement between the petitioner and the beneficiary outlining the terms of employment is necessary to establish the validity of the employment offer and the beneficiary’s commitment to fulfilling the role. USCIS will accept a written contract or the summary of the terms of an oral agreement.

# 04. Frequently Asked Questions

## Supporting Documentation for Form I-129

### **5. What should be included in the itinerary for the O-1 visa application?**

The itinerary should include the dates and locations of the events or activities, a description of what will take place, and what the beneficiary's role will be.

### **6. Can evidence of past achievements be used as supporting documentation?**

Yes, evidence of past achievements is crucial in demonstrating the beneficiary's extraordinary ability. However, it's also important to show that the beneficiary continues to be recognized and active in their field up to the present in order to show the "sustained acclaim" that USCIS requires.

### **7. How can I demonstrate a high salary or remuneration?**

Provide contracts, pay stubs, or other financial documents showing the beneficiary's salary or remuneration compared to others in the field. Third-party affidavits or industry salary surveys can also be used to contextualize the beneficiary's compensation within the industry standard.

### **8. What happens if the supporting documentation is not in English?**

Any supporting documentation not in English must be accompanied by a full English translation, which the translator has certified as complete and accurate.

### **9. How should the supporting documentation be organized when submitting Form I-129?**

Organize the supporting documentation logically and coherently. Compiling the right supporting documentation is a critical component of the O-1 visa application process. It requires careful consideration and organization to effectively demonstrate the applicant's extraordinary abilities and qualifications. If you are working with an attorney or immigration professional, they will likely ask you to organize the supporting documentation in a specific and organized way so that they can compile it into the finished petition.

# 05. Consultation or Advisory Opinion

- Pay for, obtain, and include in your petition a written advisory opinion from a relevant peer group, labor organization, or management organization in the field of arts and entertainment. This is a required part of the petition.
- For DJs, this is usually the American Federation of Musicians (AFM), but USCIS maintains a current list of relevant organizations on their website.

# 05. Frequently Asked Questions

## Consultation or Advisory Opinion

### **1. What is a consultation or advisory opinion for an O-1 visa application?**

A consultation or advisory opinion is a written statement from a peer group, labor organization, or a person with expertise in the beneficiary's field of endeavor. This statement assesses the beneficiary's qualifications and achievements and the nature of the work they will be doing in the United States. It is a mandatory part of the O-1 visa petition process.

### **2. Who can provide a consultation or advisory opinion?**

The consultation must come from a peer group (which could be a group of practitioners in the beneficiary's field), a labor organization, or a person designated by the group with the authority to issue such opinions. The specific group or individual will vary depending on the beneficiary's area of expertise. USCIS maintains a list of organizations who can provide consultations and advisory opinions on their website. Labor unions often charge a fee to issue the consultation or advisory opinion letter.

### **3. Is a consultation or advisory opinion required for all O-1 visa applications?**

Yes, a consultation is generally required for O-1 visa applications. However, if the petitioner can demonstrate that an appropriate organization does not exist, USCIS may waive this requirement.

### **4. What should the consultation letter include?**

The consultation letter should include a detailed assessment of the beneficiary's qualifications and achievements in their field, an evaluation of their role in the proposed work in the U.S., and whether the position requires someone of extraordinary ability. It should also state the author's qualifications to make these assessments.

### **5. How recent must the consultation or advisory opinion be?**

The consultation should be as recent as possible to reflect the current opinion of the peer group or labor organization, and should be obtained within the year prior to filing the petition to ensure its relevance.

### **6. Can a consultation or advisory opinion be negative?**

Yes, a consultation can be negative. However, a negative consultation does not automatically result in a denial of the O-1 petition. USCIS will consider the consultation along with all other evidence submitted to make a final decision.



# 05. Frequently Asked Questions

## Consultation or Advisory Opinion

### **7. What happens if the consultation or advisory opinion is not provided with the O-1 petition?**

If the required consultation is not included with the petition, USCIS may issue a Request for Evidence (RFE) for it, delay processing, or potentially deny the petition if the lack of consultation significantly impacts the ability to determine the beneficiary's eligibility.

### **8. Can the petitioner submit multiple consultations from different organizations?**

Yes, petitioners should submit consultations from all relevant organizations if more than one is applicable to the beneficiary's field.

# 06. Filing Fee and Submitting the Petition

- Submit the petition documents and pay the filing fee: Check the USCIS website for the current filing fee for Form I-129, including accepted methods of payment. Ensure that the fee is paid when submitting the petition.
- Double check the USCIS website for current filing procedures (which government location to send the package to, how it should be organized, etc.).

# 06. Frequently Asked Questions

## Filing Fee and Submitting the Petition

### 1. What is the current filing fee for the O-1 visa petition?

The filing fee for an O-1 visa petition varies and is subject to change. It is essential to check the U.S. Citizenship and Immigration Services (USCIS) website for the most current fee information.

### 2. Are there any additional USCIS fees apart from the filing fee?

In addition to the base filing fee for Form I-129, there may be USCIS additional fees, including but not limited to the Premium Processing Service fee, if the petitioner opts for faster processing of the petition, and the Asylum Program fee, which may be required for certain petitions. Additional fees beyond USCIS fees include fees paid to labor unions for consultation and advisory opinions, legal fees (if hiring an attorney to prepare the petition), and visa fees paid to U.S. consulates abroad.

### 3. What is Premium Processing, and how much does it cost?

Premium Processing is an optional service offered by USCIS that guarantees processing of the petition within 15 business days for an additional fee. The cost of Premium Processing is subject to change, so it's important to verify the current rate on the USCIS website.

### 4. How can the filing fee be paid?

Filing fees can typically be paid by check, money order, or through certain credit cards. Specific instructions regarding payment methods are provided on the USCIS website.

### 5. Where should the O-1 visa petition be submitted?

The O-1 visa petition should be submitted to the correct USCIS Service Center. The correct filing address can depend on the petitioner's location and other factors, so it's crucial to consult the USCIS website for the most accurate filing instructions.

### 6. Can the O-1 visa petition be filed electronically?

At the time of writing, the O-1 visa petition cannot be filed electronically.

### 7. Is there a separate fee for dependents of the O-1 visa holder applying for O-3 status?

There is no separate petition nor separate fee for dependents of the O-1 visa holder applying for O-3 status unless they are present in the U.S. and filing a Form I-539 to extend or change their status.

# 06. **Frequently Asked Questions**

## Filing Fee and Submitting the Petition

### **8. What happens if the filing fee is not correctly paid?**

If the filing fee is incorrect or not paid according to the instructions, USCIS will reject the petition outright, which can delay processing.

# 07. USCIS Processing

- Wait for USCIS Decision: After submitting Form I-129 with all supporting documents, USCIS will review your petition. Processing times vary regularly and can take several weeks to several months. Check the USCIS website for current average processing times and be prepared to wait for their decision.
- If approved, USCIS will issue Form I-797, Notice of Action, which confirms the approval of your petition. This form is sent to your petitioner.
- If USCIS does not approve your petition, they will first send a Request For Evidence (RFE) to your petitioner, explaining what they believe is lacking in your petition and giving you one more chance to submit more evidence before they render a final decision.

# 07. Frequently Asked Questions

## USCIS Processing

### 1. What does USCIS processing of an O-1 visa application involve?

USCIS processing of an O-1 visa application involves reviewing the submitted Form I-129, along with all the supporting documentation. The process includes verification of documents, assessment against O-1 visa criteria, and may involve requests for additional evidence.

### 2. How long does the USCIS processing of an O-1 visa take?

Processing times for O-1 visa petitions vary widely and change unpredictably based on the workload of the USCIS service center and other factors. Applicants can check current processing times on the USCIS website or opt for Premium Processing for expedited review.

### 3. Can the processing time be expedited?

Yes, petitioners can opt for Premium Processing by submitting Form I-907 and paying the associated fee. This service guarantees processing within 15 business days. If USCIS does not meet this timeframe, the Premium Processing fee may be refunded.

### 4. What happens if additional information is required?

If USCIS requires more information or evidence to make a decision, they will issue a Request for Evidence (RFE) detailing what they believe is lacking in the petition and giving the petitioner one more chance to submit more evidence before they render a final decision. The petitioner must respond to the RFE within the timeframe specified by USCIS, or the petition will be denied.

### 5. Is there a way to check the status of an O-1 visa petition?

Interested parties can check the status of their O-1 visa petition on the USCIS website using the official receipt number mailed to the petitioner.

### 6. What are the possible outcomes of the USCIS processing?

The USCIS processing of an O-1 visa application can result in approval, denial, or a request for further evidence. Approvals may allow the beneficiary to apply for an O-1 visa at a U.S. embassy or consulate if necessary for their entry to the U.S.. Denials can be appealed or a new petition may be submitted.

# 07. Frequently Asked Questions

## USCIS Processing

### **7. What are common reasons for delays in USCIS processing?**

Delays can be caused by a high volume of applications, incomplete applications, errors in the submitted forms, or the need for additional evidence. National security concerns or administrative checks can also extend processing times.

### **8. Can the decision of USCIS be appealed?**

Yes, if an O-1 visa petition is denied, the decision can be appealed to the USCIS Administrative Appeals Office (AAO) or a motion to reopen or reconsider can be filed. It's important to review the denial notice for specific instructions and deadlines for appeal.

### **9. How does USCIS communicate the decision on an O-1 visa application?**

USCIS communicates the decision by mailing a notice to the petitioner. If approved, the notice will indicate the final approval period and will include information on the next steps for the beneficiary to obtain the visa. If denied, the notice will explain the reasons for denial and the options for appeal. If the petitioner filed an I-907 for Premium Processing, the petitioner may receive an emailed notice of approval.

### **10. What should petitioners do if they have concerns or questions during the processing period?**

Petitioners with concerns or questions can contact USCIS directly through their customer service center. For complex issues, seek assistance from an immigration attorney.

# 08. Premium Processing (optional)

- Consider Premium Processing: If you need expedited processing, you can opt for premium processing by paying an additional fee. This service guarantees a decision within 15 calendar days, which can be beneficial if you have time constraints.



# 08. Frequently Asked Questions

## Premium Processing

### 1. What is Premium Processing?

Premium Processing is a service offered by the United States Citizenship and Immigration Services (USCIS) that provides expedited processing for certain employment-based petitions and applications, including the O-1 visa. For a fee, USCIS guarantees processing of these petitions within 15 business days.

### 2. How much does Premium Processing cost for an O-1 visa petition?

The fee for Premium Processing is subject to change, so it's important to check the current fee on the USCIS website.

### 3. How can one request Premium Processing for an O-1 visa petition?

To request Premium Processing, the petitioner must complete and submit Form I-907, Request for Premium Processing Service, along with the required fee. This can be done concurrently with the O-1 visa petition (Form I-129) or can be added to a pending petition.

### 4. What does the 15-business day processing time mean?

The 15-business day processing time means that USCIS will take some form of action on the petition within 15 days of receiving the Form I-907. This action could be an approval, a request for additional evidence (RFE), a notice of intent to deny (NOID), or a denial.

### 5. Can Premium Processing expedite the entire visa application process?

Premium Processing only expedites the adjudication of the petition by USCIS. It does not affect the timing of any subsequent visa appointment or processing at a U.S. Embassy or consulate.

### 6. What happens if USCIS does not meet the 15-business day processing time?

If USCIS does not take action on the petition within the 15-business day period, it is legally obliged to refund the Premium Processing service fee.

### 7. Can the Premium Processing fee be refunded if the petition is denied?

The Premium Processing fee is only refunded if USCIS fails to meet the 15-business day processing deadline. It is not refunded in case of a petition denial.

### 8. How are RFEs handled under Premium Processing?

If an RFE is issued, the 15-business day clock stops on the day the RFE is issued, and restarts once USCIS receives the petitioner's response to the RFE. The new 15-day period begins on the day USCIS confirms receipt of the RFE response.

# 08. Frequently Asked Questions

## Premium Processing

### **9. Is it possible to switch to Premium Processing after submitting the O-1 visa petition?**

Yes, a petitioner can request Premium Processing for a pending O-1 visa petition by submitting Form I-907 and the appropriate fee. This request can be made at any time while the petition is still under review by USCIS.

# 09. Visa Application

- Apply for O-1 Visa: With the approved petition (Form I-797) in hand, you can proceed to apply for the O-1 visa at a U.S. Embassy or consulate. This is usually easiest to complete in your home country, but can also be done at other U.S. Embassy/consulate locations across the world.
- You will need to complete the DS-160 online visa application (a long and detailed personal questionnaire) and pay the associated visa application fee on the website of your U.S. Embassy of choice in order to schedule a visa interview appointment.

# 09. Frequently Asked Questions

## O-1 Visa Application at the Consulate

### **1. How do I get my O-1 visa after my petition has been approved?**

With evidence of the approved petition (Form I-797) in hand, you can proceed to apply for the O-1 visa at any U.S. Embassy or consulate.

### **2. Do I have to apply at the consulate in my home country?**

The visa application is usually easiest to complete in your home country, but can also be done in other U.S. Embassy or consulate locations across the world.

### **3. Why do I need to apply at a consulate?**

Having been approved for O-1 classification in a visa petition does not mean that you are necessarily eligible for an actual visa—the U.S. Department of State usually has the final word—after an application process and security/background checks—on whether a physical visa may be issued.

### **4. How do I apply?**

You will need to complete the DS-160 online visa application (a long and detailed personal questionnaire) and pay the associated visa application fee on the website of your U.S. Embassy of choice in order to schedule a visa interview appointment.

### **5. Can my family accompany me if I receive an O-1 visa?**

Yes, spouses and unmarried children under the age of 21 may apply for O-3 visas to accompany the O-1 visa holder to the U.S. by completing the DS-160 Form and interviewing for their visas. They cannot work in the U.S., but may study.

### **6. Does everyone need to complete this step?**

Currently, Canadian citizens are exempt from this step of the visa process. While Canadians still must be approved for O-1 classification in a petition, they do not need to receive physical visas from U.S. Embassies—they are permitted to enter the U.S. on O-1 status just with evidence of the approved petition.

# 10. Visa Interview

- Attend the Visa Interview: At the visa interview, you'll need to demonstrate your qualifications as an extraordinary DJ and your intention to work in the U.S. The consular officer may ask about your career, achievements, and plans in the U.S.
- At this point in the process, the consular officer will also conduct a routine background check on you, including criminal record history, which you must disclose in advance of the interview.
- Additionally, you'll need to provide biometrics (fingerprints and photograph) as part of the visa application process.

# 10. Frequently Asked Questions

## Visa Interview

### 1. Is a visa interview required for all O-1 visa applicants?

After the USCIS approves the Form I-129 petition, most O-1 visa applicants must attend a visa interview at a U.S. Embassy or Consulate in their home country in order to receive a physical visa. The interview is a standard part of the visa application process for adults between the ages of 14 and 79. It may be waived for certain applicants, such as children and the elderly, and under other specific circumstances when the authorities permit the applicant “interview waiver” and issue a visa without an interview, often by mail.

### 2. How do I schedule an interview for an O-1 visa?

The applicant must complete the Online Nonimmigrant Visa Application (Form DS-160), pay the application fee (the “Machine Readable Visa” or “MRV” Fee), and then schedule the interview through the website of the U.S. Embassy or Consulate where they plan to apply. The process for scheduling an interview can vary by location.

### 3. What documents should I bring to the O-1 visa interview?

Each U.S. consulate has slightly different policies and procedures, but in general, most consulates require at minimum:

- A passport valid for travel to the United States;
- The receipt number of your approved Form I-129 petition and ideally the Form I-797 Approval Notice;
- The Nonimmigrant Visa Application, Form DS-160 confirmation page;
- MRV fee payment receipt;
- Photo – You will upload your photo while completing the online Form DS-160. If the upload fails, you must bring a printed photo in the format explained in the photograph requirements

### 4. What types of questions are asked during the O-1 visa interview?

The consular officer may ask questions about your professional background, the purpose of your trip, your plans in the U.S., and how long you plan to stay. Be prepared to discuss your achievements and how they qualify you for an O-1 visa, as well as your intentions after your visa expires. The consular officer will also conduct a routine background check on you, including criminal record history, which you must disclose in advance of the interview. You will also need to provide biometrics (fingerprints and photograph) as part of the visa application process.

# 10. Frequently Asked Questions

## Visa Interview

### 5. How can I prepare for the O-1 visa interview?

Preparation for the O-1 visa interview should include:

- Reviewing your Form I-129 petition and being familiar with its contents.
- Gathering all required documentation and evidence of your extraordinary ability.
- Preparing concise answers to potential questions about your professional plans and qualifications.
- Practicing your responses to common visa interview questions in English, unless the interview will be conducted in your native language.

### 6. How long does the O-1 visa interview process take?

The interview itself is usually quite brief, often lasting just a few minutes. However, wait times can vary depending on the volume of applicants, so it's advisable to be prepared for a longer wait.

### 7. What happens after the O-1 visa interview?

After the interview, if your visa is approved, you may need to pay a visa issuance fee (if applicable to your nationality), and you will be informed how your passport with the visa will be returned to you. The processing time can vary widely by consulate and individual case, but if there are no complications, the visa is usually ready within 5 business days.

### 8. Can my O-1 visa application be denied after the interview?

Yes, an O-1 visa application can be denied if the consular officer finds that you do not meet the visa requirements or if you are inadmissible under U.S. immigration law. In such cases, you will be given a reason for the denial based on the specific section of law.

### 9. What should I do if my O-1 visa is denied?

If your O-1 visa is denied, you should review the reason for the denial closely. In some cases, you may be able to reapply if you can overcome the reason for refusal or if your circumstances have changed significantly. Consult an attorney or immigration professional if you are unsure.

### 10. Can my family attend the visa interview with me?

Dependents applying for O-3 visas may need to schedule separate interviews, though some consulates and embassies allow family members to attend interviews together. Check the specific procedures of the U.S. Embassy or Consulate where you will apply.

# 11. Visa Approval

- Receive Visa: If approved, the U.S. Embassy or consulate will keep your passport for a few days to issue the O-1 visa stamp before returning it to you, thereby allowing you to enter the United States.



# 11. Frequently Asked Questions

## Visa Approval

### 1. What happens after my O-1 visa is approved?

Once your O-1 visa is approved, you will be informed by the consular officer. Your passport with the visa sticker and any other original documents provided during the interview will typically be returned to you via courier service, or you may be instructed on how to collect them. The consulate or embassy will also provide you with information on any visa issuance fees that may be applicable based on your nationality.

### 2. How long can the O-1 visa be valid?

The validity of an O-1 visa depends on the specific duration of the event or activity for which it was approved, up to a maximum of three years.

### 3. Can I enter the U.S. immediately after my visa is approved?

You can enter the U.S. on your O-1 visa up to 10 days before your petition (and employment) start date. However, you are not permitted to start work until the date specified on your visa.

### 4. Is there a grace period after my O-1 visa expires to leave the U.S.?

There may be a 10-day grace period after your O-1 visa expires, during which you can remain in the U.S. to prepare for your departure or seek an extension or change of status. However, you cannot work during this grace period unless you have obtained a new visa or status that permits employment, and you must check your Form I-94 online after entering the U.S. to verify whether or not you were given the grace period.

### 5. What should I do if my plans change and I need to stay longer than the visa validity?

If you need to stay in the U.S. longer than the initial validity period of your O-1 visa, you must file for an extension of stay with USCIS. This requires submitting Form I-129, evidence supporting the need for an extension, new supporting documentation, and possibly a new advisory opinion. It is important to note that the visa itself is not extended and that you must reapply at a consulate the first time you depart the U.S. after an extension is granted.

### 6. Is there a limit to how many times I can extend my O-1 visa?

There is no specific limit to the number of extensions an O-1 visa holder can receive. Extensions are granted based on the necessity to continue or complete the work or activity for which the visa was issued. Similarly, there is no limit to the number of successive petitions a petitioner can file for a beneficiary.

# 11. Frequently Asked Questions

## Visa Approval

### **6. Can I travel outside the U.S. on an O-1 visa?**

Individuals with “multiple entry” visas may generally travel outside the U.S. and return on an O-1 visa. To re-enter the U.S., you must have a valid O-1 visa in your passport. If your visa expires while you are abroad, you will need to apply for a new O-1 visa at a U.S. Embassy or Consulate before returning to the U.S.

### **7. Will my family’s O-3 visas also be approved if my O-1 visa is approved?**

Approval of your O-1 visa does not automatically guarantee approval of O-3 visas for your dependents. They must independently qualify for O-3 status based on their relationship to you and your O-1 status. However, their applications are usually processed in conjunction with your O-1 visa application.

### **8. What happens if my job or employer changes after my O-1 visa is approved?**

If you change your job or employer after receiving your O-1 visa, your new employer or agent must file a new Form I-129 petition on your behalf. Generally, you may not commence new employment until the new petition is approved.

### **9. How can I check the status of my visa after the interview?**

You can check the status of your visa application online through the website of the U.S. Department of State using your application ID or case number.

### **10. What are my obligations as an O-1 visa holder?**

As an O-1 visa holder, you must adhere to the terms of your visa, including working only for the employer or agent who petitioned on your behalf, and you must leave the U.S. before your visa expires unless you have applied for an extension or change of status.

# 12. Travel to the U.S.

- Enter the U.S.: With the O-1 visa, you can usually enter the U.S. up to 10 days before the official date that your petition period begins. Ensure you have all necessary documents, including your visa, passport, and Form I-797, when you arrive in the United States. You'll be inspected at the border one more time by the U.S. Customs and Border Protection (CBP) who will ask you what you plan to do on that trip to the U.S.