

U.S. IMMIGRATION
Definition of terms

AAFA:

Agent Appointment by Foreign Artist. This is authorization from the artist for the petitioner to file a non-immigrant worker petition on the artist’s behalf. To USCIS Agent = Petitioner

Adjudication: The service center’s decision - either a) Approval, b) RFE or c) Denial

Beneficiary: aka non-immigrant alien, on the performer side the principle performer or creator be it musician, dancer, acrobat, choreographer, artistic director, actor, author ...
 for support personnel – technicians (sound, lights, video), stage managers, support musicians, tour manager, costume person, hairstylist ...

CBP: Customs Border Protection – the fellow/gal at entry (be it pre-flight inspection or port-of-entry) with the authority to ask any questions they want and make any decision they want for any reason.

Classification: A particular statutory nonimmigrant category that permits an alien temporarily to engage in defined activities in the U.S. in accordance with USCIS regulations as disclosed in the petition.
 For the performing arts there are 2 classifications: O and P

CSC: California Service Center – one of two service centers that process I-129 petitions (see also VSC).

DHS: Department of Homeland Security (see also USCIS)

DOS: Department of State

DS-160:

This is a Nonimmigrant Visa Application used by U.S. Embassies and Consulates. Foreign artists will need to complete this application following receipt of the USCIS Form I-797 obtained by the U.S. petitioner. Consulate fee is currently \$190.00. **Canadian citizens need not apply for a visa at a US Consulate.**

EAA: Employer Agent Appointment Form. This is authorization from a presenter for the petitioner to file a non-immigrant worker petition for the beneficiary on behalf of the presenter. To USCIS Employer = presenter (promoter) - the venue, festival that is hiring the artist and Agent = petitioner. No performance date can be included in a petition without an EAA (and, of course, a performance contract)

ESTA: Electronic System of Travel Authorization. Citizens from 36 countries can be eligible for ESTA. This is NOT an authorization for an artist to perform in the USA with the exception of closed conference showcases (not off site that are open to the public) – for business meetings and tourism only.

I-129: The primary application form and its supplement that is included with a petition. The I-129 fee is \$460.00 (as of 11-16-20 injunction against proposed fee increases remains in effect).

I-907 - Premium Processing Service (PPS): With PPS USCIS guarantees adjudication by an USCIS service center within 15 business days of the receipt of the petition by USCIS. The I-907 fee is a hefty \$2,500.00. It is either sent with the initial submission, or one can upgrade to PPS after the initial submission if time demands.

Note: USCIS adjudication of a case will be either an Approval, a Request for Evidence (RFE) or a Denial.

I-797: The I-797 is the Notice of Action. After receiving a petition, USCIS will send an I-797C Receipt Notice followed by either: I-797B Approval Notice, Request for Evidence or Denial. The I-797 Approval Notice will state the classification, dates of intended employment, the petitioner and the beneficiaries. The I-797 will have a Receipt Number beginning with the three-letter USCIS Service Center code (EAC, WAC). **The I-797 Approval Notice is not your visa.** It is simply permission for an Alien to apply for a visa at a designated U.S. Embassy and Consulate. If, however, you are a **Canadian** citizen, the I-797, together with a valid passport, copy of petition (or parts thereof), is all that is required at a POE or pre-flight inspection.

Tip: Keep a record of all I-797 Approval Notices for future petitions

I-94: Arrival/Departure record. When entering the USA CBP will stamp the alien's passport with the visa classification and length of time for which the alien is admitted. The CBP online database will be updated with the information in an I-94 record of admission. As of April 30, 2013, CBP will no longer issue paper I-94 cards, and instead makes the I-94 record available online at www.cbp.gov/i94. Once in the U.S., the I-94 record is far more important to the alien than visa or I-797. Even if the I-797 classification period is longer than the departure date on the I-94, the I-94 governs.

Labor Union Consultation:

Before a petitioner can submit the petition(s) to USCIS, the petition(s) must be sent to the appropriate labor union(s) for the required consultation letter(s). These include AFM, AGMA, IATSE, AGVA. In general unions give a favorable consultation. While the union labor consultation is advisory only, and not binding on USCIS, the USCIS Service Center may deny a petition that has a negative consultation letter. If a negative consultation letter is received, one must review the letter and find an additional expert to support your case and rebut the union's position, then file the petition. If the alien in fact meets the applicable standards, chances are good that USCIS will approve the petition despite the union's objections.

Petition: The complete application package prepared for USCIS including Form I-129 and its supplements, union consultation letter(s), any addendum to Form I-129 (itinerary, beneficiary information if a group), performance contracts, support letters, press materials.... A typical petition runs 80-130 pages.

Petitioner: The person, or organization, that will submit the petition on behalf of the artist and presenter(s). Note that this person or organization must be a U.S. based presenter/promoter, agent, manager, sponsor, lawyer, presenter or other party. This person or organization should have complete knowledge of the entire USCIS procedure.

PFI: Pre-Flight Inspection facility, where aliens undergo inspection by CBP personnel prior to boarding flights to the U.S.

PIMS: The Petition Information Management Service is the secure intranet USCIS uses to make petition and application approval data available to consular posts abroad, POE and PFI.

POE: Port of Entry (air, land or sea)

PPS: Premium Processing Service wherein processing time is 15 business days

Presenter: The organization(s) that contracts the artist for whatever services – concert, masterclass, teaching...), referred to by USCIS as the Employer.

Processing Location:

USCIS will cable the I-797 Approval Notice to a Processing location designated on the petition.

This is either: a) port-of-entry (POE); b) pre-flight inspection (PFI); or c) U.S. Consulate

All non-resident aliens, with the exception of Canadian citizens, are required to have a visa issued into their passport at a designated U.S. Consulate following receipt of the I-797 Approval Notice.

If the artist is a Canadian citizen, they do not need to have a consulate procedure. The USCIS Form I-797 Approval Notice that the petitioner obtains, together with a copy of the petition (or portions thereof) and a valid passport, is all that is required to enter. For Canadian citizens the USCIS Processing Location stated on the petition will be either a POE if arriving in the USA by ground (i.e. Champlain, NY) or PFI if arriving by flight (i.e. Pierre-Elliott-Trudeau Airport, Montreal) or both as the artist requires.

RFE:

Request for Evidence (can cause delays of 1-2 months)

RPS: Regular Processing Service wherein processing time can be 1.5 to 3.5 months

Service Center: There are two service centers for the performing arts where petitions are sent – Vermont (EAC) and California (WAC) – which one a petitioner applies to is dependent on where the petitioner is located.

USCIS: United States Citizenship and Immigration Services, under the jurisdiction of the Department of Homeland Security. Formerly the Bureau of Citizenship and Immigration Service (BCIS).

Visa:

The physical item that a U.S. Embassy and Consulate enters into a passport that contains a biometric photo embedded with fingerprint data and other information, including the classification, petitioner and dates of intended employment. It does not convey any status – but rather is permission for the alien to present himself/herself at a POE or Pre-flight Inspection for admission in the classification designated by the I-797 Approval Notice. The visa requirement is waived for Canadian citizens (see Processing Locations).

VSC: Vermont Service Center – one of two service centers that process I-129 petitions (see also CSC).