

**DRAFT FOR COMMENT ONLY**

Posted: 07-16-2015

Comment period ends: 08-13-2015

This draft does not constitute agency policy in any way or for any purpose.

U.S. Department of Homeland Security  
U. S. Citizenship and Immigration Services  
Office of the Director (MS 2000)  
Washington, DC 20529-2000



U.S. Citizenship  
and Immigration  
Services

June 9, 2015

**PM-602-0115**

## Policy Memorandum

SUBJECT: Updates to the November 20, 2009 Memorandum on Requirements for Agents and Sponsors Filing as Petitioners for the O and P Visa Classifications

### Purpose

This policy memorandum (PM) clarifies U.S. Citizenship and Immigration Services (USCIS) requirements involving agents who are serving as petitioners in O and P petitions (“agent-petitioners”). This PM maintains most of the substance of the November 20, 2009 memorandum: “Requirements for Agents and Sponsors Filing as Petitioners for the O and P Visa Classifications” (“2009 Agent Memo”), but clarifies portions and incorporates publicly-available guidance on certain documentary requirements.<sup>1</sup>

### Scope

This PM becomes effective at the time of publication, and supersedes the 2009 Agent Memo. This PM applies only to the adjudication of O and P petitions. It applies to and is binding on all USCIS employees.

### Authorities

- Immigration and Nationality Act (INA) sections 101(a)(15)(o) and (p), 8 U.S.C. §§ 1101(o) and (p)
- INA section 214(c)(1), 8 U.S.C. § 1184(c)(1)
- INA section 214(c)(5)(B), 8 U.S.C. § 1184(c)(5)(B)
- 8 CFR 214.2(o)
- 8 CFR 214.2(p)
- 8 CFR 103.2(a)(1)-(2)

<sup>1</sup> Please note that there are other documentary requirements, such as a written advisory opinion, which are required for O and P petitions. See 8 CFR 214.2(o)(2)(ii)(D), (p)(2)(ii)(D), and (p)(7)(i). This PM, however, only focuses on the documentary requirements that were the subject of the 2009 Agent Memo.

## Guidance for O and P Petitions Filed by Agent-Petitioners

### A. Agent-Petitioners, In General

The term “importing employer” in section 214(c)(1) of the (Immigration and Nationality Act) INA has been implemented in Department of Homeland Security regulations at 8 CFR 214.2(o)(2)(iv)(E) and 214.2(p)(2)(iv)(E), to include a U.S. employer, a U.S. agent, or a foreign employer represented by an agent.<sup>2</sup> USCIS reaffirms current practice allowing agents to serve as petitioners for all types of O and P petitions, provided that agents meet the regulatory requirements.<sup>3</sup> These regulations, 8 CFR 214.2(o)(2)(iv)(E) and 8 CFR 214.2(p)(2)(iv)(E), state that a U.S. agent may file a petition in the following scenarios:

- Cases involving traditionally self-employed workers;
- Cases involving workers who use agents to arrange short-term employment with numerous employers; or
- Cases where a foreign employer authorizes an agent to act on his or her behalf.

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.

An O or P petition filed by a U.S. agent is subject to different conditions depending on whether the agent is:

- Performing the function of an employer;
- A person or company in business as an agent who is filing a petition involving multiple employers as the representative of both the employers and the beneficiary; or
- Filing for a foreign employer.

USCIS clarifies the following requirements as applicable to all types of agent-petitioners in the O and P context:

#### 1. General Contract Requirement

The regulations at 8 CFR 214.2(o)(2)(ii)(B) and 8 CFR 214.2(p)(2)(ii)(B), which respectively apply to all O and P petitions, require a copy of any written contract between the petitioner and the beneficiary. If a written contract does not exist, USCIS will accept evidence summarizing the

---

<sup>2</sup> While INA section 214(c)(1) also applies to certain H and L classifications, this PM only applies to how “importing employer” is defined in the O and P regulations. *See also* 59 FR 41818, \*41830 (August 15, 1994) (noting how section 214(c)(5)(B) of the INA indicates that agents may, in fact, file a petition, by discussing the issue of the joint liability of the petitioner and employer with respect to the foreign national’s return transportation).

<sup>3</sup> *See generally* 8 CFR 214.2(o)(2)(iv)(E) and 8 CFR 214.2(p)(2)(iv)(E) (regulatory sections do not differentiate between the different sub-categories of the P classification); *see also* 72 FR 18856, \*18856-18857 (April 16, 2007) (“Such employer, agent, or sponsor also can use the P nonimmigrant classification to petition for an alien to come temporarily to the United States to perform as an artist or entertainer under a reciprocal exchange...[and] for an alien artist or entertainer to come temporarily to the United States to perform, teach, or coach under a commercial or noncommercial program that is culturally unique.”)

terms of an oral agreement under which the beneficiary will be employed. This evidence may include:

- Emails between the contractual parties;
- A written summation of the terms of the agreement involving the contractual parties;
- Deal memos (signed or unsigned) that typically lay out the terms of the agreement between the parties;
- Deal offers, performance/concert/live artist offer letters; and
- Any other evidence demonstrating the existence and content of an agreement.

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

- What was offered by the employer, or in certain circumstances, the agent performing the function of an employer or the entity for whom the beneficiary is providing services or performing; and
- The terms and conditions accepted by the beneficiary.

The summary does not need to be signed by both parties to establish the oral agreement. However, the summary must document the terms and conditions of the employment offered or the terms and conditions of the services to be provided and also indicate that the beneficiary has *accepted* that offer. Please refer to Section B below regarding the contract or summary of the terms of the oral agreement requirement for the different types of agent-petitioner scenarios.

## 2. General Itinerary Requirement

The regulations at 8 CFR 214.2(o)(2)(ii)(C) and 8 CFR 214.2(p)(2)(ii)(C), which respectively apply to all O and P petitions, require petitioners to submit 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. The petitioner must establish that there are events or activities in the beneficiary's field for the validity period requested (e.g., an itinerary for a tour or a series of events). If a beneficiary will perform services in more than one location, the petitioner must include an itinerary with the dates and locations of the work/performances.<sup>4</sup> In cases where an itinerary is required, either under the general O and P provisions, or under those provisions specific to agents, USCIS interprets the regulations as providing some flexibility, based on established industry standards, in determining if the itinerary requirement has been satisfied. The itinerary or a specific explanation of the events or activities should show that a beneficiary is entering the United States for an event, performance, or activity. Please refer to Section B below regarding the itinerary requirement for the different types of agent-petitioner scenarios.

## 3. Determining Whether An Event, Performance, or Activity Exists

An O or P nonimmigrant is admitted to the United States to perform in events or activities as detailed in the petition.<sup>5</sup> A beneficiary may not be granted O or P classification to enter the United States to freelance and/or engage in speculative employment. The regulations at 8 CFR 214.2(o)

---

<sup>4</sup> 8 CFR 214.2(o)(2)(iv)(A) and 8 CFR 214.2(p)(2)(iv)(A).

<sup>5</sup> 8 CFR 214.2(o)(1)(i), 8 CFR 214.2(o)(3)(ii), 8 CFR 214.2(o)(6)(i) and (iii); 8 CFR 214.2(p)(1)(i), 8 CFR 214.2(p)(3), 8 CFR 214.2(p)(8)(i) and (iii).

and (p) include a non-exhaustive list of activities that may be considered an event for the O or P classifications.<sup>6</sup>

USCIS officers rely upon documentary evidence, such as contracts and/or itineraries, to determine whether an event, performance, or activity exists for a beneficiary. Other evidence that may be helpful in establishing that an event or activity exists includes:

- Brochures detailing performances in which the beneficiary will be participating;
- Published advertisements or similar documents advertising the beneficiary's performance; and
- Other documentary evidence confirming the beneficiary's participation in an event and/or activity, such as confirmation of a beneficiary's participation in U.S. exhibitions and/or festivals.

Finally, USCIS officers will determine the period of time necessary to accomplish or complete an event on a case-by-case basis.<sup>7</sup> The validity date of a petition need not be limited to the period stated in the contract if the petitioner submits evidence showing that, more likely than not, there are activities such as short vacations, promotional appearances, or stopovers that are incidental and/or related to the event taking place before and/or after the dates listed in the contract. In the alternative, a petitioner may provide an explanation that these incidental and/or related events are taking place during, before and/or after the dates listed in the contract.<sup>8</sup> In the case of an O-1 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.<sup>9</sup> Similarly, a petitioner for a P beneficiary may add additional, similar or comparable performance, engagements, or competitions during the validity period of the petition without filing an amended P petition.<sup>10</sup>

#### 4. Agent's Responsibility When Filing a Petition

Agents who are serving as petitioners for O and P beneficiaries have responsibilities associated with filing the I-129, Petition for a Nonimmigrant Worker (Form I-129). Specifically, 8 CFR 103.2(a)(2) states, in part, that:

By signing the benefit request, the applicant or petitioner, or parent or guardian certifies under penalty of perjury that the benefit request and all evidence submitted with it, either at the time of filing or thereafter, is true and correct.

Therefore, an agent-petitioner who signs the Form I-129 petition for O or P beneficiaries certifies that, under the penalty of perjury, the petition and the evidence submitted with it are true and correct to the best of the agent-petitioner's knowledge, and that USCIS may verify the information

---

<sup>6</sup> 8 CFR 214.2(o)(3)(ii) and 8 CFR 214.2(p)(3).

<sup>7</sup> 8 CFR 214.2(o)(6)(i) and (iii); 8 CFR 214.2(p)(8)(i) and (iii).

<sup>8</sup> 8 CFR 214.2(o)(3)(ii), 8 CFR 214.2(o)(6)(i) and (iii); 8 CFR 214.2(p)(3), 8 CFR 214.2(p)(8)(i) and (iii).

<sup>9</sup> 8 CFR 214.2(o)(2)(iv)(D).

<sup>10</sup> 8 CFR 214.2(p)(2)(iv)(D).

that has been submitted through audits and on-site compliance reviews.<sup>11</sup> In addition, the burden is on the agent-petitioner to explain the terms and conditions of the employment or the services required of the beneficiary and to provide any documentation to USCIS that is required under Form I-129 Instructions and/or that is necessary to show eligibility for the O or P visa classification. Agent-petitioners are also responsible for any amendments to the petition, including requests for extension of stay and the filing of an amended petition to reflect any material changes in the terms and conditions of employment or the beneficiary's eligibility.<sup>12</sup> Finally, agreements between an agent-petitioner and the beneficiary, which purportedly absolve the agent-petitioner from losses or damages incurred, do not absolve the agent-petitioner from responsibilities associated with signing and submitting the O and P petition.<sup>13</sup>

Both the agent-petitioner and the employer (if different from the agent-petitioner) are jointly and severally liable for the reasonable costs of the beneficiary's return transportation abroad if the employer, for reasons other than voluntary resignation, dismisses the beneficiary from employment before the end of the authorized stay period.<sup>14</sup> Applicable regulations also provide that an employer, either a U.S. or foreign employer, is responsible for complying with the processes outlined in section 274A of the INA and 8 CFR 274a.<sup>15</sup>

## **B. Requirements for Different Types of Agent-Petitioner Scenarios**

An O or P petition filed by an agent is subject to additional evidentiary requirements listed under 8 CFR 214.2(o)(2)(iv)(E) and 8 CFR 214.2(p)(2)(iv)(E), respectively. The evidence required depends on the type of relationship the agent has with the beneficiary. The O and P provisions reference scenarios where an agent is: (1) the beneficiary's actual employer; (2) performing the function of an employer; (3) filing as a representative of both the employers or entities requiring beneficiary's services and the beneficiary; or (4) filing for a foreign employer.<sup>16</sup> The documentary requirements for agent-petitioners

---

<sup>11</sup> See Part 7 of the Form I-129; p. 23 of the Form I-129 Instructions; see also 8 CFR 103.2(a)(1) (stating in part that such instructions are incorporated into the regulations). The Form I-129 Instructions further describe the penalties that are associated with knowingly and willfully falsifying or concealing a material fact or submitting a false document with the petition.

<sup>12</sup> See 214.2(o)(2)(iv)(D) and 214.2(p)(2)(iv)(D); see also 59 FR 41818, \*41823 (August 15, 1994) (explaining that "[i]n order to accommodate those situations where an agent files a petition and where the alien change[s] employers...the agent should file an amended petition with information relating to the new employer. The agent must also request an extension of the alien's stay.").

<sup>13</sup> The existence of these third-party agreements or questions on an agent's liability or responsibility should not be a reason for issuing a request for evidence (RFE) if it has been established that the agent has properly filed an O or P petition, and has properly met all other O or P requirements.

<sup>14</sup> See section 214(c)(5)(B) of the INA (stating that the petitioner shall "provide assurance satisfactory to the Attorney General that the reasonable cost of the transportation will be provided."); 8 CFR 214.2(o)(16) and (p)(18); and *Form I-129, O/P Supplement: Section 2 Statement by the Petitioner*.

<sup>15</sup> 8 CFR 214.2(o)(2)(iv)(E)(3) and 8 CFR 214.2(p)(2)(iv)(E)(3); see also 62 FR 18508, \*18510 (April 16, 1997) ("Since all employers, domestic or foreign, who use agents to fulfill their section 274A duties remain liable for violations, this rule will ensure effective enforcement against violating employers.").

<sup>16</sup> The regulations specifically describe the petitioning requirements in three agent scenarios (i.e., an agent performing the function of an employer, an agent filing as a representative of both the employers or entities requiring the beneficiary's services and the beneficiary, or an agent for a foreign employer). The O and P provisions, however, also provide that an agent may be the actual employer of the beneficiary. In certain cases, such agent-employers may also be able to file on

focus on ensuring that there are events, activities, performances, or competitions taking place in the United States. Thus, each case should be adjudicated on its own merits, and even if a particular case does not fit neatly into one of these agent scenarios, such petition should not be denied based solely on agency issues if all other O or P requirements have been met and it appears that, more likely than not, there is a qualifying event, activity, performance, or competition taking place in the United States.

1. Agent as an Actual Employer

- a. Contract Requirement: The agent-petitioner must show that the agent is the actual employer, and must submit the contractual agreement between agent and beneficiary which specifies the wage offered and other terms and conditions of employment. USCIS will accept either a written contract or a summary of the terms of the oral agreement if a written contract does not exist.<sup>17</sup>
- b. Itinerary Requirement: A petition which requires the beneficiary to work in more than one location must include an itinerary with the dates and locations of the competitions, performances, or events.
- c. Documents Showing Petitioner is Authorized to Act as an Agent: Such documentation is not necessary because the agent, as the actual employer, is not acting as an agent, and the beneficiary will be working solely for the agent-employer.

2. Agent as an Actual Employer and Filing on Behalf of Other (Multiple) Employers

- a. Contract Requirement: A U.S. agent may be the employer and may also file a petition on behalf of the beneficiary as his or her agent and on behalf of other employers. In this scenario, the agent-petitioner must show that the agent is the actual employer, and submit the contract between the agent-petitioner and the beneficiary which specifies the wage offered and other terms and conditions of employment. In addition, for the O classification, the contracts between the other employers and the beneficiary are also necessary.<sup>18</sup> USCIS will accept either a written contract or a summary of the terms of the oral agreement if a written contract does not exist.<sup>19</sup>
- b. Itinerary Requirement: A U.S. agent filing an O or P petition for multiple employers must include a complete itinerary of the event or events which specifies the dates of each service or engagement, the names and addresses of the other employers, and the names and addresses of the establishments, venues, or locations where the services will be performed.
- c. Documents Showing Petitioner is Authorized to Act as an Agent: In this scenario, the beneficiary, in addition to working for the agent, will be working for more than one employer within the same time period. Thus, the petitioning employer must establish that it is “in business as an agent” by providing evidence that the petitioner is duly authorized to

---

behalf of other employers in a representative capacity. Accordingly, this PM addresses requirements and conditions for five, rather than three, agent-petitioner scenarios.

<sup>17</sup> Please see Section A.1 for a non-exhaustive list of types of evidence that can be considered as alternatives to a written contract.

<sup>18</sup> All O petitions must include contracts between the employers and the beneficiary. 8 CFR 214.2(o)(2)(iv)(E)(2). Contracts may be required for P petitions in questionable cases. 8 CFR 214.2(p)(2)(iv)(E)(2).

<sup>19</sup> Please see Section A.1 above for a non-exhaustive list of types of evidence that can be considered as alternatives to a written contract.

act as an agent for the other employers for the purposes of filing a particular petition.<sup>20</sup> This means that the petitioner does not have to demonstrate that it normally serves as an agent outside the context of this petition. Adjudicators should consider evidence that shows that it is more likely than not that the petitioner is an agent for the series of events, services, or engagements that is the subject of the petition. Thus, this requirement may be satisfied, for example, if the agent-petitioner presents a document signed by the beneficiary's other employer(s) which states that the petitioner is authorized to act in that employer's place as an agent for the limited purpose of filing the petition with USCIS. Other examples of probative evidence that may demonstrate that the petitioner is authorized to act as an agent may include, but are not limited to: a statement confirming the relevant information [itinerary, names and addresses of the series of employers] signed by the petitioner and the other employers; other types of agency representation contracts; fee arrangements; or, statements from the other employers regarding the nature of the petitioner's representation of the employers and beneficiary. While evidence of compensation may help establish that the petitioner is authorized to act as an agent, compensation to the petitioner from other employers is not required to establish that the petitioner is authorized to act as an agent. Note that no particular form or specific language is required to be submitted with a petition to establish authorization to act as an agent, and an RFE should not be issued requesting a particular form or specific language in any agency agreement. Instead, adjudicators should focus on whether the agent-petitioner has shown that it has obtained authorization from the other employer(s) to file a petition on their behalf. Each individual case must be evaluated based on the specific facts presented.

Assuming that the petition is approvable and the petitioner has established that it is authorized to act as an agent in order to file the petition on behalf of the other employers, the validity period should last for the duration of the qualifying events not to exceed the maximum allowable validity period for the classification being sought. If the petition is approvable but the petitioner has not established authorization by the other employers to file the petition on behalf of the other employers (after an RFE, if documentation was not provided with the filing), the validity period should be limited to the qualifying events for which the petitioner will be directly employing the beneficiary, not to exceed the maximum allowable validity period for the classification being sought.

### 3. Agents Performing the Function of an Employer

An agent performing the function of an employer may file an O or P petition. The agent in this scenario does not employ the beneficiary, in a traditional sense; however, the agent is still responsible for managing the beneficiary and maintaining a certain level of control or exclusivity over the services provided by the beneficiary.

- a. Contract Requirement: A Form I-129 petition for O or P beneficiaries filed by an agent performing the function of an employer must include the contractual agreement between the

---

<sup>20</sup> See generally 62 FR 18508, \*18509 (April 16, 1997) (explaining that "the term 'agent' need not be limited to a person or entity who has entered into a formal agency agreement with the employer," but rather, "can be someone authorized to represent and act for another, to transact business for another, or manage another's affairs.").

petitioner and the beneficiary. USCIS will accept either a written contract or a summary of the terms of the oral agreement if a written contract does not exist.<sup>21</sup>

This contractual agreement or summary of the terms of the oral agreement must specify the wage offered and other terms and conditions of the beneficiary's activities within the United States. It should indicate how the beneficiary will be paid and the type of relationship between the agent and the beneficiary. It is important to note that the regulations do not contain a prevailing wage requirement and therefore no particular wage structure is required. A detailed description of the wage offered or fee structure that was agreed upon may satisfy this requirement.

Please note that USCIS relies on the required contractual agreement or summary of the terms of the oral agreement to determine whether the agent is functioning as the employer of the beneficiary. In totality, if the terms and conditions of the contractual agreement show a level of control or exclusivity over the beneficiary's activities within the United States being relinquished to the agent, then the agent may establish that it is performing the function of an employer. It is important for the petitioner to indicate that it is filing as an agent performing the function of an employer and substantiate that claim via a detailed description of the terms and conditions of the agreement. A determination on whether the petitioner is an agent performing the function of an employer will be on a case by case basis and will be based generally on the contractual agreement, whether written or oral. A contract is not required between the beneficiary and the entities that will ultimately use the beneficiary's services when the petition is filed by an agent performing the function of an employer.

- b. Itinerary Requirement: If filing a P petition, an agent performing the function of an employer "must also provide an itinerary of definite employment and information on any other services planned for the period of time requested."<sup>22</sup> This requirement does not apply to O petitions filed by agents performing the function of an employer.<sup>23</sup>

In addition, an O or P petition filed by an agent performing the function of an employer, *which requires the beneficiary to work or provide services in more than one location* must include an itinerary with the dates and locations of work.<sup>24</sup> There are no exceptions to this regulatory requirement, although the form and specificity of the details in the itinerary may vary depending on the industry. USCIS relies upon the itinerary provided, in addition to other evidence in the record, to determine whether actual work or activity exists for a beneficiary that will be placed at multiple sites and how much time is necessary for the beneficiary to complete the event(s). USCIS will take into account established industry standards when determining whether the itinerary requirement has been met, and while

---

<sup>21</sup> Please see Section A.1 above for a non-exhaustive list of types of evidence that can be considered as alternatives to a written contract.

<sup>22</sup> 8 CFR 214.2(p)(2)(iv)(E)(I).

<sup>23</sup> See 8 CFR 214.2(o)(2)(iv)(E)(I).

<sup>24</sup> 8 CFR 214.2(o)(2)(iv)(B) and 8 CFR 214.2(p)(2)(iv)(B).



each determination is fact specific, an itinerary is not required to take on a specific form.<sup>25</sup> Further, the regulations specify that for all O and P petitions, the petition must be submitted with an explanation of the nature of the events or activities, the beginning and end dates for the events or activities, and a copy of any itinerary. As such, the itinerary must, at a minimum, indicate the type of service the beneficiary will be engaged in, as well as where and when these services will take place.

- c. Documents Showing Petitioner is Authorized to Act as an Agent: Such documentation is not necessary provided that the agent demonstrates through the contract or the summary of the terms of the oral agreement submitted that the agent is performing the function of the employer.

4. Agent Filing As a Representative of Both the Employers or Entities Requiring Beneficiary's Services and Beneficiary

In this scenario, the agent is filing the O or P petition on behalf of the beneficiary and the employers or entities that require beneficiary's services as the representative of both the beneficiary and the employers.

- a. Contract Requirement: Agents filing for multiple employers as a representative of both the beneficiary and employers or entities requiring beneficiary's services must submit the contract between the petitioner (agent) and the beneficiary, or the terms of an oral agreement if a written contract does not exist.<sup>26</sup> In addition, for the O classification, the contracts between the beneficiary and the employers or entities requiring beneficiary's services are also necessary. This contract must explain the terms and conditions of the employment or the services required of the beneficiary and must demonstrate what was offered by the employer or the entity that requires the beneficiary's services and what terms and conditions were accepted by the beneficiary. USCIS will accept either a written contract or the terms of an oral agreement if a written contract does not exist.<sup>27</sup> This contract requirement provides USCIS with evidence that the beneficiary is coming to the United States to perform or render services in an event, activity, performance, or competition. For the P classification, a contract between the employers and the beneficiary or beneficiaries may be required in questionable cases and the burden is on the agent to explain the terms and conditions of the employment and provide any required documentation.<sup>28</sup>
- b. Itinerary Requirement: Agents filing Form I-129 petitions for multiple employers must include a complete itinerary of the event or events which specifies the dates of each service

---

<sup>25</sup> It is not expected that every engagement would be included in the itinerary, but rather, it may be sufficient for the agent-petitioner performing the function as the beneficiary's O-1 employer to identify the outside entity that will ultimately use the beneficiary's service and provide an estimated beginning and end date and general location where the services or work would occur. For example, in the modeling context, a document indicating that the beneficiary will be modeling on numerous occasions for a specific designer beginning in March and ending in September may suffice.

<sup>26</sup> Please see Section A.1 above for a non-exhaustive list of types of evidence that can be considered as alternatives to a written contract.

<sup>27</sup> Please see Section A.1 above for a non-exhaustive list of types of evidence that can be considered as alternatives to a written contract.

<sup>28</sup> 8 C.F.R. 214.2(p)(2)(iv)(E)(2).

or engagement, the names and addresses of the other employers, and the names and addresses of the establishments, venues, or locations where the services will be performed.

- c. Documents Showing Petitioner is Authorized to Act as an Agent: In this type of agent filing, the beneficiary will be working and/or providing services for more than one entity within the same time period. Thus, the agent must establish that it is “in business as an agent” by providing evidence that the petitioner is duly authorized to act as an agent for the other employers or entities requiring the beneficiary’s services for the purposes of filing the petition.<sup>29</sup> Please see Section B.2.c above for a non-exhaustive list of types of evidence that can be considered to show that petitioner is authorized to act as an agent.

#### 5. Agents for Foreign Employers

- a. Contract Requirement: Agents filing Form I-129 petitions for foreign employers must submit 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 if a written contract does not exist.<sup>30</sup>
- b. Itinerary Requirement: Agents filing Form I-129 petitions for foreign employers must also submit 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 petition which requires the beneficiary to work in more than one location must include an itinerary with the dates and locations of work.
- c. Documents Showing Petitioner is Authorized to Act as an Agent: A U.S. agent petitioning on behalf of a foreign employer must be authorized to file the O or P petition. Thus, the petition needs to show that the petitioner is representing the foreign employer for the purposes of filing the O or P petition.<sup>31</sup> Please see Section B.2.c above for a non-exhaustive list of types of evidence that can be considered to show that a petitioner is authorized to act as an agent.

### C. Sponsoring Organizations

This section of this PM applies only to P petitions where the petitioner indicates that it is a U.S. sponsoring organization.<sup>32</sup> A P petition filed by a U.S. sponsoring organization is subject to specific guidelines. A sponsor is defined as:

[A]n established organization in the United States which will not directly employ a P–1, P–2, or P–3 alien but will assume responsibility for the accuracy of the terms and conditions specified in the petition.<sup>33</sup>

---

<sup>29</sup> 8 CFR 214.2(o)(2)(iv)(E)(2) and 214.2(p)(2)(iv)(E)(2).

<sup>30</sup> Please see Section A.1 above for a non-exhaustive list of types of evidence that can be considered as alternatives to a written contract.

<sup>31</sup> 8 CFR 214.2(o)(2)(i) and 8 CFR 214.2(o)(2)(iv)(E); 8 CFR 214.2(p)(2)(i) and 8 CFR 214.2(p)(2)(iv)(E).

<sup>32</sup> This section does not apply to P petitions filed by U.S. employers, agents, a foreign employer filing through a U.S. agent, or for P-2 petitions, labor organizations that negotiated the reciprocal exchange program for a P-2 program. *See also* 59 FR 41818, \*41825 (August 15, 1994) (adding U.S. labor organizations as entities that can file P-2 petitions while acknowledging that U.S. labor organizations, which are parties to the reciprocal agreement, can file P-2 petitions using the same guidelines related to the filing of P petitions by U.S. agents).

A sponsoring organization can qualify as a petitioner if it can provide evidence, such as a written contract between the sponsoring organization and the beneficiary, which indicates that although the sponsoring organization will not directly employ the beneficiary, it will guarantee the terms and conditions of employment of the beneficiary. A company that is directly employing the beneficiary may not file a petition as a sponsoring organization. Under existing regulations, petitioners may not file as a sponsoring organization for O petitions.

Moreover, the P regulations provide that for beneficiaries who will work for more than one employer within the same time period, each employer must file a separate petition unless an agent files the petition.<sup>34</sup> Thus, an agent has to be the entity filing on behalf of multiple employers, for a beneficiary who works for more than one employer within the same time period. An agent must provide the contractual and/or itinerary documentation required under the regulations. In the alternative, employers can file separate petitions for a beneficiary working for more than one employer within the same time period.

#### **Use**

This PM is intended solely for the guidance of USCIS personnel in the performance of their official duties. It is not intended to, does not, and may not be relied upon to create any right or benefit, substantive or procedural, enforceable at law or by any individual or other party in removal proceedings, in litigation with the United States, or in any other form or manner.

#### **Contact Information**

Questions or suggestions regarding this PM should be addressed through appropriate channels to the Office of Policy and Strategy, Business and Foreign Workers Division.

---

<sup>33</sup> 8 CFR 214.2(p)(3).

<sup>34</sup> 8 CFR 214.2(p)(2)(iv)(B).