

TEMPLATE

Posted: 12-10-2010
End date: 12-23-2010

REQUEST FOR EVIDENCE**I-129 Q-1 Cultural Exchange Visitors**

You have filed Form I-129, Petition for Nonimmigrant Worker, seeking Q-1 nonimmigrant classification for (beneficiary name(s)) (“participant” or “beneficiary”). Your organization, (organization name), seeks to employ the beneficiary as a (position title).

The Q-1 classification applies to aliens temporarily visiting the United States as participants in an international cultural exchange visitors program. The program must provide practical training and employment to the participant. At the same time, it must share the history, culture, and traditions of the participant’s country with the American public. Participants must be employed under the same wages and conditions as domestic workers.

To process your petition and determine if the participants are eligible, additional information is required. Provided for you is suggested evidence you could submit to satisfy each requested item. You may give one, some, or all of these items. You may also submit none of them, and instead give other evidence that you believe satisfies the request. Note, however, that you are responsible for providing evidence that best shows that you and the participants meet all requirements. Evidence must show that both you and the participants were eligible for the requested benefit when Form I-129 was filed.

Employment Description

You provided an incomplete description of participants’ anticipated duties. (Explain why.) Please submit a more detailed description of the work or service to be performed by participants. Explanations should show how the duties are related to the program’s cultural component. For duties performed at multiple locations, provide an itinerary listing the dates and locations of the services, labor, or training.

Training Description

You provided an incomplete description of the training to be received by participants. (Explain why.) Please submit a more detailed description of the training participants receive. Explanations should show how the training is related to the program’s cultural component. For duties performed at multiple locations, provide an itinerary listing the dates and locations of the services, labor, or training.

Program Requirements

In general, programs which qualify for Q-1 nonimmigrant classification must have:

- accessibility to the public;
- a cultural component; and
- a work component.

To show that your program meets these general qualifications, you submitted:

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- (list submitted evidence).

Accessibility to the Public. The structured program must be held in a place where the American public is exposed to aspects of a foreign culture. At a minimum, the program must be accessible to a segment of the public which shares a common cultural interest. It may be held in a school, museum, business, or other establishment. Activities taking place in a private home or isolated business setting do not qualify if there is no public access.

You meet this requirement.

-OR-

You did not provide evidence for this requirement. Evidence you may submit to satisfy this requirement includes, but is not limited to:

-OR-

You provided evidence that does not sufficiently show the program is accessible to the American public. (Explain why.) Evidence you may submit to satisfy this requirement includes, but is not limited to:

- An itinerary or schedule of the program activities.
- A detailed statement explaining how the activities are made available to the general public.
- Evidence of your sponsorship of activities occurring within the local community.

Cultural Component. This component must exhibit or explain the attitude, customs, history, heritage, philosophy, or traditions of the participants' country of nationality. A cultural component may include qualified, structured instructional activities such as seminars, courses, lecture series, or language camps.

You meet this requirement.

-OR-

You did not provide evidence for this requirement. Evidence you may submit to satisfy this requirement includes, but is not limited to:

-OR-

You provided evidence that does not sufficiently show the program has a cultural component. (Explain why.) Evidence you may submit to satisfy this requirement includes, but is not limited to:

- A brochure for the lecture, language camp or other program events.
- Outlines or summaries of objectives for program courses.
- Evidence of a website for your program.

Work Component. A participant's employment or training in the United States must be related to the cultural component of the program. The employment is how the cultural component of the program is presented to the American public.

You meet this requirement.

-OR-

You did not provide evidence for this requirement. Evidence you may submit to satisfy this requirement includes, but is not limited to:

-OR-

You provided evidence that does not sufficiently show the program has a work component. (Explain why.) Evidence you may submit to satisfy this requirement includes, but is not limited to:

- A more complete description of participants' anticipated duties and/or training, and how they relate to the program.
- Brochures which solicit participants or further explain the program.

Beneficiary Requirements

Participants must be eligible for program participation at the time you file Form I-129. To be eligible for Q-1 nonimmigrant classification, participants must:

- meet the age requirement;
- be qualified to perform the necessary duties;
- have the ability to communicate effectively; and
- have been outside the United States for the immediate prior year.

To show that the participant meets these qualifications, you submitted:

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- (list submitted evidence).

Age Requirement. Participants must be 18 years old when the petition is filed.

The participant meets this requirement.

-OR-

You did not provide evidence for this requirement. Evidence you may submit to satisfy this requirement includes, but is not limited to:

-OR-

You provided evidence that does not sufficiently show the participant was at least 18 years old when the petition was filed. (Explain why.) Evidence you may submit to satisfy this requirement includes, but is not limited to:

- Copies of the biographic information page of participants' passports.
- Copies of participants' notarized and translated birth certificates.

Performance Qualifications. Participants must be qualified to perform the service or labor, or receive the type of training, stated in the petition.

The participant meets this requirement.

-OR-

You did not provide evidence for this requirement. Evidence you may submit to satisfy this requirement includes, but is not limited to:

-OR-

You provided evidence that does not sufficiently show the participant is qualified to perform the required service or receive the program training. (Explain why.) Evidence you may submit to satisfy this requirement includes, but is not limited to:

- Copies of certificates of completion or transcripts showing the beneficiaries' participation in events or classes relevant to the program.
- Evidence of participants' work experience which is relevant to the program. This may include work products created by the participants or previous employers' attestations.

Communication Qualifications. Participants must be able to effectively communicate the cultural attributes of their countries of nationality to the American public.

The participant meets this requirement.

-OR-

You did not provide evidence for this requirement. Evidence you may submit to satisfy this requirement includes, but is not limited to:

-OR-

You provided evidence that does not sufficiently show the participant is able to effectively communicate as required. (Explain why.) Evidence you may submit to satisfy this requirement includes, but is not limited to:

- Evidence of participants' ability to communicate in English (if job duties require it). This may include evidence of having taken English language courses or exams.
- Evidence of participants' previous public speaking engagements, such as brochures highlighting them as speakers.
- Evidence of skills necessary to competently communicate non-verbal cultural attributes related to the program. This may include copies of certificates of completion, transcripts, or brochures demonstrating participants' skills.

Requirement to be Outside the United States. This requirement applies only to participants who previously worked for you, or any other employer, as Q-1 cultural exchange visitors. Previous participants must reside and be physically outside the United States for one year before you file Form I-129.

The participant meets this requirement.

-OR-

You did not provide evidence for this requirement. Evidence you may submit to satisfy this requirement includes, but is not limited to:

-OR-

Our records indicate that the participant was previously granted Q-1 classification. However, you have not provided evidence to sufficiently show that he or she has been outside the United States for the required time. Evidence you may submit to satisfy this requirement includes, but is not limited to:

- Copies of participants' passport stamps.
- Statements indicating participants have not previously held Q-1 classification.
- Any other evidence that shows the participants were outside the United States during the required period.

Re-establishing the Petitioner as a Qualified Employer

Your organization previously received an approval for your exchange program. Usually, you may provide a copy of a recent Approval Notice for the program to re-establish employer qualifications. However, we are permitted to review your qualifications each calendar year to determine continued eligibility.

Employer Requirements

You must establish that you are a qualified employer for purposes of the Q-1 nonimmigrant classification. To do so, you must show that at the time of filing Form I-129, you:

- maintain an established international cultural exchange program;
- have designated a qualified employee for the program;
- are actively doing business;
- meet wage and working condition requirements; and
- are able to compensate participants.

To show that you meet the employer qualifications, you have submitted:

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- (list submitted evidence).

Established Program. You must maintain an established international exchange program which:

- is accessible to the public;
- has a cultural component; and
- has a work component that is not independent of the cultural component.

You meet this requirement.

-OR-

To meet this requirement, submit evidence as discussed under “Program Requirements” above.

Employee Designation. You must have designated a qualified employee to be the administrator of your program and coordinator with USCIS.

You meet this requirement.

-OR-

You did not provide evidence for this requirement. Evidence you may submit to satisfy this requirement includes, but is not limited to:

-OR-

You did not provide evidence that sufficiently shows you have designated a qualified employee to administer the program. (Explain why.) Evidence you may submit to satisfy this requirement includes, but is not limited to:

- The name, position title and contact information of your designated program administrator who coordinates with USCIS.

Doing Business. Your company or organization must be actively doing business in the United States. That is, you must have employees and be continuously producing goods or services. Having an office or agent does not necessarily show that you are actively doing business.

You meet this requirement.

-OR-

You did not provide evidence for this requirement. Evidence you may submit to satisfy this requirement includes, but is not limited to:

-OR-

You provided evidence that does not sufficiently show you are doing business. (Explain why.) Evidence you may submit to satisfy this requirement includes, but is not limited to, copies of:

- Your organization's most recent federal tax returns, along with all schedules and attachments. (At least two to three years of records are suggested.)
- Your organization's most recent payroll reports or employee wage reports. (At least four quarters of records are suggested.)
- Your organization's current, valid business licenses.
- Your organization's most recent annual reports or audited financial information.
- Recent publications with advertisements or articles which discuss your organization and your program. (Include the publication name and date.)
- Recent photographs of your organization's premises.

Note: Generally, photographs alone are not enough to show that you are doing business.

Wages and Working Conditions. You must offer participants wage and working conditions comparable to similarly employed local domestic workers.

You meet this requirement.

-OR-

You did not provide evidence for this requirement. Evidence you may submit to satisfy this requirement includes, but is not limited to:

-OR-

You did not provide evidence that sufficiently shows you offer appropriate wages or working conditions. (Explain why.) Evidence you may submit to satisfy this requirement includes, but is not limited to:

- Copies of contractual agreements (or a summary of the oral agreement) between your organization and the participant.
- Evidence from U.S. Department of Labor (such as through the *Occupational Outlook Handbook*) or other credible source indicating the offered wages are appropriate for the local area.

Compensation Requirement. You must have the financial ability to compensate participants.

You meet this requirement.

-OR-

You did not provide evidence for this requirement. Evidence you may submit to satisfy this requirement includes, but is not limited to:

-OR-

You did not provide evidence that sufficiently shows you are able to compensate participants as required. (Explain why.) Evidence you may submit to satisfy this requirement includes, but is not limited to, copies of:

- Your organization's most recent federal income tax returns, along with all schedules and attachments. (At least two or three years of records are suggested.)
- Your organization's most recent annual reports or audited financial statements.
- Contracts signed between participants and your organization or your agents. The contract should establish the pay and terms of the intended period of employment.