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Chapter 3 - Petitioners

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A. Eligible Petitioners

A U.S. employer may file an O-1 or O-2 Petition for a Nonimmigrant Worker ([Form I-129](#)). A U.S. agent may also file such a petition when it involves workers who are traditionally self-employed or workers who use agents to arrange short-term employment on their behalf with numerous employers, and in cases where a foreign employer authorizes the agent to act in its 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.^{[\[1\]](#)}

An O beneficiary may not petition for himself or herself.^{[\[2\]](#)}



B. Petitioner Obligations

In the case of an O-1 or O-2 beneficiary whose employment terminates for reasons other than voluntary resignation, the employer whose offer of employment formed the basis of such nonimmigrant status and the petitioner (if different from the employer) are jointly and severally liable for the reasonable cost of return transportation of the beneficiary to his or her last place of residence prior to his or her entry into the United States. [\[3\]](#)

A petitioner must immediately notify USCIS of any changes in the terms and conditions of employment of a beneficiary that may affect eligibility under [INA 101\(a\)\(15\)\(O\)](#) and [8 CFR 214.2\(o\)](#). The petitioner should file an amended petition when the petitioner continues to employ the beneficiary. If the petitioner no longer employs the beneficiary, the petitioner must send a letter explaining the change(s) to the USCIS office that approved the petition. [\[4\]](#)

C. Agents [\[5\]](#)

A U.S. agent may file a petition in cases involving workers who are traditionally self-employed or workers who use agents to arrange short-term employment on their behalf with numerous employers, and in cases where a foreign employer authorizes the agent to act in its 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. [\[6\]](#)

A petition filed by an agent is subject to several conditions. A petition involving multiple employers may be filed by a person or company in business as an agent that acts as an agent for both the employers and the beneficiary, if:

- The supporting documentation includes a complete itinerary of the event or events;
- The itinerary specifies the dates of each service or engagement, the names and addresses of the actual employers, and the names and addresses of the establishments, venues, or locations where the services will be performed;
- The contracts between the employers and the beneficiary are submitted; and

- The agent explains the terms and conditions of the employment and provides any required documentation



An agent may be the actual employer of the beneficiary. In order to be eligible to file a petition on behalf of the beneficiary as his or her agent and on behalf of other (multiple) employers of the beneficiary, the petitioner must meet the conditions described above and establish that it is "in business as an agent" (as described below).

The regulations do not specify the evidence for establishing that the petitioner of multiple employers is "in business as an agent." Officers consider evidence that shows that it is more likely than not that the petitioner is in business as an agent for the series of events, services, or engagements that are the subject of the petition. The focus is on whether the petitioner can establish that it is authorized to act as an agent for the other employers for purposes of filing the petition. This means that the petitioner does not have to demonstrate that it normally serves as an agent outside the context of the petition.

The petitioner seeking to serve as an agent for the beneficiary or for other employers must establish that it is duly authorized to act as their agent. An officer may determine that this requirement has been satisfied if, for example, the petitioner presents a document signed by the beneficiary's other employer(s) that 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. [\[8\]](#)

Other examples of probative evidence that may demonstrate that the petitioner "is in business as an agent" may include:

- A statement confirming the relevant information (itinerary, names and addresses of the series of employers) signed by the petitioner and the series of 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 could help establish that the petitioner is in business as an agent, compensation is not a requirement to establish an agency. Again, the officer must evaluate each case based on the 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.^[9] If the petition is approvable but the petitioner has not established that it is authorized by the other employers to file the petition on behalf of the other employers (including after responding to a Request for Evidence), the validity period should be limited to the qualifying events for which the petitioner will be directly employing the beneficiary. The validity period cannot exceed the maximum allowable validity period for the classification being sought.



Footnotes

^[^1] See [8 CFR 214.2\(o\)\(2\)\(iv\)\(E\)](#).

^[^2] See [8 CFR 214.2\(o\)\(2\)\(i\)](#).

^[^3] See [8 CFR 214.2\(o\)\(16\)](#).

^[^4] See [8 CFR 214.2\(o\)\(8\)\(i\)\(A\)](#).

^[^5] Much of the USCIS policy relating to agents derives from USCIS Memorandum, PM HQ 70/6.2.18, HQ 70/6.2.19, “[Requirements for Agents and Sponsors Filing as Petitioners for the O and P Visa Classifications \(PDF, 790.07 KB\)](#),” issued on November 20, 2009.

^[^6] See [8 CFR 214.2\(o\)\(2\)\(iv\)\(E\)](#). For more information on agents, see the [O Nonimmigrant Classifications: Question and Answers](#) webpage.

^[^7] See [8 CFR 214.2\(o\)\(2\)\(iv\)\(B\)](#) and [8 CFR 214.2\(o\)\(2\)\(iv\)\(E\)\(2\)](#). All O petitions must include contracts between the employers and the beneficiary. See [8 CFR 214.2\(o\)\(2\)\(iv\)\(E\)\(2\)](#).

^[^8] No particular form or specific language is required to be submitted with a petition to establish agency. Officers should not issue Requests for Evidence requiring a particular form or specific language in the agency agreement, but should focus on whether the petitioning agent has shown that it has obtained authorization from the other employer(s) to file a petition on their behalf.

^[^9] See [8 CFR 214.2\(o\)\(6\)\(iii\)](#) and [8 CFR 214.2\(o\)\(12\)\(ii\)](#). See Chapter 9, Admission, Extension of Stay, Change of Status, and Change of Employer [[2 USCIS-PM M.9](#)].

