



HQ 70/6.2.19
AFM Update AD10-28

Memorandum

TO: Service Center Directors

FROM: Donald Neufeld/s/
Associate Director, Service Center Operations

SUBJECT: Clarifying Guidance on Adjudicating Reciprocal Exchange Agreements
Revisions to the *Adjudicator's Field Manual (AFM)* Chapter 33.6(d)
AFM Update AD10-28

Purpose

The purpose of this memorandum is to provide guidance for processing and adjudicating Form I-129, Petition for Nonimmigrant Worker, filed on behalf of P-2 nonimmigrants. In particular, this memo amends the policy guidance that the Service Centers must contact Headquarters prior to adjudication of reciprocal exchange agreements which have not been previously approved. This memorandum supersedes the March 17, 1993 Jacquelyn A. Bednarz "List of Reciprocal Exchange Programs" memorandum. See Attachment.

Background

Section 214(c) of the Immigration and Nationality Act (INA) and 8 C.F.R. 214.2(p) provides the basic requirements for the P-2 visa preference category. The P-2 petitioning employers must submit a consultation, a copy of the reciprocal agreement and evidence that the beneficiaries are subject to the reciprocal exchange. Currently, the AFM lists three approved P-2 reciprocal agreements and instruct adjudicators to contact Headquarters to examine the agreement to determine if it meets the regulatory standards regarding reciprocal agreements.

Guidance

The regulations require that the petitioner submit evidence that an appropriate labor organization in the U.S. was involved in negotiating, or has concurred with, the reciprocal exchange of the U.S. and foreign artists or entertainers. Given that the Service Centers possess the entire record, they are capable of determining if the reciprocal agreement meets the regulatory requirements. Effective immediately, service centers are not required to contact Headquarters if they encounter a reciprocal agreement not previously approved.

Field Guidance and AFM Update, Chapter 33.6(d)

Chapter 33.6(d) is revised as follows:

(d) Documentary Requirements.

Because there is no requirement that P-2 entertainers be of exceptional ability, supporting documents are limited to basic items: the consultation, a copy of the reciprocal agreement and evidence that the beneficiaries are subject to the reciprocal exchange. Evidence for essential support personnel is the same as that described in AFM Chapter 33.5(d).

At the present time, four P-2 reciprocal agreements have been negotiated. There is one between the American Federation of Musicians (U.S.) and the American Federation of Musicians (Canada), one between Actor's Equity Association (U.S.) and the Canadian Actors' Equity Association, one between Actor's Equity Association (U.S.) and the British Actors' Equity Association, and one between the International Council of Air Shows and the Canadian Air Show Association. If a reciprocal agreement is submitted other than these four, the adjudicator must review the agreement to determine if the agreement adheres to the regulatory standard. A list of any new reciprocal agreements will be maintained at Headquarters.

The AFM Transmittal Memoranda table is updated as follows:

AD10-28 March 11, 2010	Chapter 33.6(d)	This memorandum revises AFM Chapter 33.6(d) to provide guidance for processing and adjudicating Form I 129, Petition for Nonimmigrant Worker, filed on behalf of P-2 nonimmigrants.
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Use

This memorandum is intended solely for the instruction and guidance of USCIS personnel in performing their duties relative to adjudications. 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. In addition, the instructions and guidance in this memorandum are in no way intended to and do not prohibit enforcement of the immigration laws of the United States.

Contact information

Questions regarding this guidance should be directed through appropriate channels to the Business Employment Services Team of the Office of Service Center Operations.

Memorandum

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Subject List of Reciprocal Exchange Programs
Date 17 MAR 1993

To All Service Center Directors
Director, Service Center Operations
From Office Of
Adjudications

Officers involved in the adjudication of P-2 petitions are reminded that the Service has officially approved only three Reciprocal Exchange Agreements for the P-2 nonimmigrant classification. These agreements are between the American Federation of Musicians and the American Federation of Musicians in Canada; Actors Equity Association of the United States and Canadian Actors Equity Association; Actors Equity Association of the United States and British Equity.

As a result of the sensitivity of the various unions involved in the entertainment industry, copies of any reciprocal exchange agreements negotiated by other entities should be forward to the Office of Adjudications, ATTN: John W. Brown, prior to the adjudication of the petition.

Jacquelyn A. Bednarz
Jacquelyn A. Bednarz
Chief, Nonimmigrant Branch

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P-2 AFM petitions