



ARTISTIC
FREEDOM
INITIATIVE

FAQ:
U.S. Visas and Immigration Options
for At-Risk Artists, Writers, and Scholars

Updated October 18, 2022

Gracie Golden, Artistic Freedom Initiative
Liz Moller, Tamizdat

Political, environmental, and military crises all present challenges to artists, writers, and university lecturers and scholars around the world. Each year, many who are “at-risk” seek safety through temporary or permanent immigration. Various organizations and institutions in the U.S. seek to provide relief and support to these displaced individuals. This guide is intended to help those institutions better understand the options and complexities of bringing their colleagues and other members of this at-risk population to the United States.

***Legal Disclaimer:** Legal advice can only be provided in the course of an attorney-client relationship with reference to all the facts of a specific situation. Any information contained in this guide must not be relied upon as a substitute for obtaining legal advice from a licensed attorney. It is important to note that this guide is in no way an exhaustive guide, and we strongly recommend that any organization seeking to bring foreign nationals to the U.S. retain the assistance of a qualified specialist or attorney.*

The various options available to at-risk and/or interested displaced artists, writers, and university lecturers and scholars currently located outside of the U.S. generally necessitate navigating the U.S. visa system.

Artist, writer, and lecturer/scholar visa and resettlement options for at-risk individuals fall into the following broad categories:

- (1) temporary U.S. stays for visit or work;
- (2) permanent residency in the U.S.;
- (3) humanitarian parole; and
- (4) refugee status.

Additionally, a number of programs exist for individuals from specific countries or in specific circumstances. These include the following:

- (1) [The “Uniting for Ukraine” program](#)
- (2) [The U.S. Refugee Admissions Priority 2 Designation Program for Afghan Nationals](#)

1. **Temporary U.S. Stays for Visit or Work**

Question: “I want to bring an artist or arts professional to the U.S. for a temporary stay, and they will work in their field. What are my options?”

O-1B Visa: The O-1B visa is a nonimmigrant visa specifically designed for foreign nationals who are artists or arts professionals and who can demonstrate extraordinary ability in the areas of art, music, television, and film. This is a good option for applicants who are artists and who are very established in their field, and who have arranged contracted employment in the U.S. O-1B visas can last for up to three years. The O-1B is designed for people who are quite advanced in their careers, but there are many ways to prove achievement, and those not experienced with O-1B protocols should know that this visa is also attainable for many practicing and reasonably successful artists. An O-1B can last for up to three years, provided it can be shown that there is a contractual need for a duration that long. Fees and costs associated with an O-1B typically range from 2,500-8,000 USD, and processing times range from two months to six months.

P-1 Visa: The P-1 visa is very similar to the O-1B, but is used for the members of a foreign performing arts ensemble, or for a foreign performer who wishes to join an existing U.S. performing arts ensemble. P-1 visas can last for up to one year. A P-1 can last for up to one year, provided it can be shown that there is a contractual need for a duration that long. Fees and costs associated with a P-1 typically range from 2,500-10,000 USD for an ensemble, and processing times range from two months to six months.

P-3 Visa: The P-3 visa is a good option for those coming to the US temporarily to perform, teach, or coach as artists or entertainers, individually or as part of a group, to present their home country’s indigenous, folkloric, or otherwise unique cultural traditions. A P-3 can last for up to one year, provided it can be shown that there is a contractual need for a duration that long. Fees and costs associated with a P-3 typically range from 2,500-8,000 USD for an individual or ensemble, and processing times range from two months to six months.

For more information about O-1B, P-1, and P-3 visas, please see www.artistsfromabroad.org, the definitive guide to U.S. employment visas for performing artists.

Question: “I wish to bring a writer/scholar/artist to the U.S. to participate in a residency program. Do they need a visa, and if so, what visa do they need?”

Almost all at-risk writers, scholars, and artists will need some kind of visa to travel to the U.S. Which visa classification is appropriate depends on a number of factors. If the program is only covering the individual's expenses, it is possible that they could come to the U.S. for up to 180 days on a visitor visa (B-1, B-2 or “B-1/B2”). The rules that determine what does and does not constitute “work” are complex, and if you are considering bringing an individual to the U.S. on a visitor visa, it is essential that you seek counsel beforehand.

Question: “I wish to bring a writer/scholar/artist to the U.S. to fulfill an academic position. Which visa classification should we seek for this academic?”

There are a number of different visa categories that can be used to employ academics, including the O-1 and F-1, but in the vast majority of situations, academics at-risk will be best off seeking J-1 status under its professor and research scholar program. The professor and research scholar category within the J-1 classification program allows participants to engage in research, observe, teach, and lecture at post-secondary schools, museums, research institutions, corporate research facilities, libraries, and similar institutions in the U.S. The maximum duration of these programs is five years.

The Application Process for Temporary Visas: All of these visas require some degree of groundwork in the U.S. prior to the individual applying for a visa at a U.S. embassy or consulate abroad. This preparation can require considerable labor, expense, and time. Once this work is completed, and the individual applies at a U.S. embassy or consulate, there are additional challenges to overcome, including the current unavailability of visa interview appointments, administrative delays, and the ever-present possibility that the visa may be denied. It is important to understand the full scope of the process, including the challenges, costs, and timeframes, prior to undertaking the visa process with an at-risk individual. It should also be noted that an approved petition does not guarantee a visa; many visa applicants – and especially individuals from the MENA regions and the Global South – frequently experience visa processing delays or denials related to the DS-5535 “extreme vetting” form, or the 214(b) denial, which is a denial related to an interviewing officer’s concern that the visa applicant might violate the terms of their visa by engaging in unauthorized work or overstaying their visa duration.

2. Permanent Residency in the U.S.

Question: “I am a writer/scholar/artist who is famous in my home country, and I am interested in permanently resettling in the U.S. Which immigration option should I pursue?”

EB-1 Visa: This visa allows the applicant to enter the U.S. without an offer of employment and provides permanent residency in the United States. The standard of approval is very high, and the EB-1 should only be entertained for individuals who have reached a truly high level of achievement in their field – arguably amongst the top in their field in the world.

Question: “I am a writer/scholar/artist who is already in the United States, and I will face persecution if I return to my home country. What options do I have to stay in the United States?”

Asylum: If you are already in the U.S. and wish to stay because you fear persecution in your home country due to your race, religion, nationality, political opinion, or membership in a particular social group, you can apply for asylum in the United States. You can include your spouse and unmarried children under the age of 21 who are in the United States in your asylum application. Most asylum seekers should apply for asylum during the first year following their arrival in the U.S. There is no fee to apply for asylum. An asylee may apply for a green card (permanent residence) one year after being granted asylum.

Temporary Protected Status (TPS): The United States designates certain foreign countries for Temporary Protected Status based on conditions in that country that temporarily prevent the country’s nationals from returning safely. Conditions that warrant TPS designations include ongoing armed conflict, environmental disaster, or an epidemic. Eligible individuals already inside the United States from countries with TPS designations may apply for Temporary Protected Status in the United States. If granted TPS, individuals cannot be removed from the U.S. and are eligible for employment authorization. To check the countries currently designated for Temporary Protected Status, visit the [USCIS website](#).

3. Humanitarian Parole

Question: “I urgently need to enter the United States for medical reasons or to attend a family member’s funeral, but I am ineligible for a temporary visa. How can I enter?”

Humanitarian parole allows an individual to be paroled into the country for a temporary period. Individuals who are outside of the United States can request parole based on urgent humanitarian or significant public benefit reasons. Parole is authorized for a temporary period that varies depending on the purpose of the parole and expires after that purpose, when the individual acquires immigration status, or when the individual leaves the United States.

Currently, USCIS is working through significant administrative processing delays for humanitarian parole applications. There is a particularly large backlog of pending applications

from Afghan applicants. USCIS has announced that they aim to return to the normal 90-day processing times by October 1, 2024.

Because consular services in Afghanistan have been suspended, Afghan applicants must travel to a third country in order for their applications to be fully processed. If applicants are in Afghanistan, they will be notified by USCIS to arrange travel to a third country if it is determined they may be eligible for humanitarian parole.

Specifically For Ukrainians: *Uniting for Ukraine*

Question: “I would like to sponsor a Ukrainian to come to the U.S., and I’ve heard about the Uniting for Ukraine program. Am I eligible to be a “sponsor,” and how does the program work?”

Uniting for Ukraine allows Ukrainians displaced by the war in Ukraine to temporarily join a “sponsor” in the U.S. for a two-year humanitarian parole period. As of the date of this FAQ, in addition to the U.S. criteria, Ukrainian law impacts the ability of Ukrainian men to leave Ukraine. To go abroad, they must [submit a formal request to the Ministry of Culture and Information Policy of Ukraine](#).

To be eligible as a U.S. sponsor, you must:

- Complete [Form I-134 Affidavit of Support](#) with USCIS;
- Be a U.S. based individual in lawful status (or have parole, deferred action, or Deferred Enforced Departure) (an organization may provide financial support, but an individual must sign the I-134);
- Pass security and background vetting; and
- Demonstrate sufficient income or financial resources to receive, maintain, and support the sponsored Ukrainians during their stay in the U.S.

Ukrainians 18 years and older qualify for the program so long as they:

- Resided in Ukraine before and through February 11, 2022;
- Are a Ukrainian citizen with a valid Ukrainian passport (or a child on parent’s passport, or a non-Ukrainian citizen in the immediate family of the qualifying Ukrainian citizen);
- Have an approved I-134 Affidavit of Support form signed by their sponsor; and
- Undergo biometrics collection, biographic screening, and security vetting.

More information on starting the Uniting for Ukraine application process can be found on [USCIS's website on the program](#).

4. **Refugee Status**

[U.S. Refugee Resettlement Program \(USRAP\)](#)

Refugee status is a form of protection that may be granted to people who are of special humanitarian concern to the United States and who have been persecuted or who fear persecution on account of race, religion, nationality, political opinion, or membership in a particular social group. Refugees are generally people outside of their country who are unable or unwilling to return home because they fear serious harm. Individuals may only seek a referral for refugee status only from outside of the United States. If an individual has been persecuted or fears persecution in their home country but is already in the United States, they may be eligible for asylum in the United States.

Specifically For Afghans: U.S. Refugee Admissions Program: Priority 2 Designation

Question: “I work at a U.S. based non-governmental or media organization, and we would like to refer a former Afghan employee to a refugee program in the United States. How do we do so?”

The P2 Designation was developed in response to the humanitarian situation in Afghanistan. This program is for the following groups of Afghans:

- Afghans who worked for the US Government, US Armed Forces in Afghanistan, International Security Assistance Forces, or Resolute Support;
- Afghans who were employed by contractors of the US government;
- Afghans who work or worked at any time for a U.S. government-funded program or project in Afghanistan supported through a U.S. government grant or cooperative agreement; and
- Afghans who are, or were, employed in Afghanistan by a U.S.-based non-governmental or media organization.

To refer someone to the P2 program, submit the USRAP referral eligibility form through the [Refugee Processing Center](#).

As of yet, the P2 program has significant backlogs and requires lengthy processing in a third country. It should not be relied upon as an evacuation route

for at-risk Afghans. This document will be updated as more information and clarity around the P2 program is announced.

IMPORTANT NOTE: This *Priority 2 Designation* (P2) should not be confused with the *P-2 visa*, which is issued to performing artists who are participants in a reciprocal exchange program. P-2 visas are currently only available to a very limited number of Canadian and British musicians and actors.

Specifically For Afghans: *U.S. Refugee Admissions Program: Priority 1 Designation*

Question: “There is an Afghan writer/scholar/artist who has advised that they have a P1 Designation in process. We would like to bring them to our organization for a fellowship. Is this possible?”

Yes. Though applications for the P1 Designation in USRAP may only be made by a U.S. Embassy, a designated NGO, or [the UNHCR \(UN refugee agency\)](#), organizations may offer fellowships to and otherwise work with an Afghan national who already has this designation in progress.

IMPORTANT NOTE: This *Priority 1 Designation* (P1) should not be confused with the *P-1 visa*. As discussed in more detail above, the P-1 visa is used for the members of a foreign performing arts ensemble, or for a foreign performer who wishes to join an existing U.S. performing arts ensemble.

Resources for refugees and asylum seekers:

<https://www.usaid.gov/usaid-response-ukraine/resources-refugees-asylum-seekers>

§

Additional Pro Bono Legal support

(US) [Artistic Freedom Initiative](#)

(US) [Tamizdat](#)

(US) [Catholic Charities](#)