

MassArt Policy Regarding Honorarium Payments To International (Non-Immigrant Alien) Visiting Artists

QUICK START GUIDE

*This process exists to ensure that MassArt and the Foundation are in compliance with INS/IRS rules.
Please refer to the checklists in this packet for further details; this page is an outline only.
This process is current as of March 2016, and is subject to change.*

FAQs (ANSWERING THE QUESTION: “WHY IS THIS SO COMPLICATED?”)

1. Why do we have this policy? State Department/INS rules determine if an international visitor is eligible to be paid for services provided in the U.S. Not all are, and even those who are must meet certain requirements. This policy outlines how the college determines eligibility, and then provides a step-by-step process for payment.
2. Why is the IRS involved? IRS rules require 30% withholding from most visiting artists who are not US taxpayers and the state requires 5% withholding. If you offer a \$1,000 honorarium or stipend, the artist will receive \$650, \$350 will be withheld, and they must file a US tax return and a MA state tax return to be refunded the \$350.
3. Can I reimburse my visitor their expenses instead of paying an honorarium? Travel expenses can be reimbursed or paid for the visiting artist without tax consequences in most situations.

BEFORE YOU INVITE A VISITING ARTIST FROM ABROAD

1. Please read this packet in its entirety.
2. MassArt’s International Education Center must review the visitor’s expected immigration status and determine eligibility for payment. YOU do NOT have to figure this out.
3. DO NOT SEND AN INVITATION LETTER to an international visiting artist before the MassArt IEC has determined their eligibility to be paid. If an invitation letter is sent prior to IEC approval **neither the College nor the Foundation will be able to pay the visitor**, even if compensation is promised by the sponsoring department.
4. The IEC and Accounting Services *really want to help you pay your visiting artists!* Please follow these steps so we can!

GENERAL STEPS THE DEPARTMENT MUST FOLLOW

1. Read this packet in its entirety.
2. Obtain any necessary departmental approval for funds that are intended as compensation or travel reimbursement.
3. Contact the IEC for current checklists and forms.
4. Refrain from committing to compensate or reimburse an international visiting artist until the visitor’s eligibility for payment has been determined by the IEC.
5. Facilitate communication between relevant college offices and the visitor.
6. Complete required forms in a timely manner.
7. Use the templates supplied in this packet.

GENERAL STEPS YOUR VISITING ARTIST MUST FOLLOW

1. Complete required forms, provide authorization (if applicable), and send required documentation in a timely manner.
2. Apply for and obtain the appropriate visa, and carry all necessary documentation to enter the US when travelling.
3. Apply for a US Individual Taxpayer ID number (ITIN) while at MassArt (optional).



MassArt Policy for Payment to International (Non-Immigrant Alien) Visiting Artists

MassArt seeks to welcome a truly diverse community to campus, and in doing so supports our academic departments as they invite visiting artists to lecture for short periods of time here in Boston. Many times these invitations come with the promise of reimbursement of expenses or payment of honorarium, for which only certain international visitors are eligible under specific U.S. regulations. This document serves to outline:

Eligibility	Explain eligibility for payment of honoraria and reimbursement of expenses.
Payment	Provide information on payment and taxation.
Checklist	Provide a checklist of the steps necessary to pay these visitors.

If the required documentation is not collected and the below process not followed, MassArt will not be able to pay the individual. There will be no exceptions to this policy, as the College is required to follow strict governmental regulations. While the International Education Center and Accounting Services serve as resources as departments work with their visitors, it is important to read this policy carefully and understand the responsibilities of the faculty and department hosting the visitors.

Eligibility

The laws regarding eligibility for payment of honoraria can be found at the end of this document. These laws address “B” and “J” type visitors, which are the most common visitors and which are detailed in the table below.

As criteria differ based on visitor type, sponsoring departments must contact the International Education Center for review of the visitor’s expected immigration status and determination of eligibility for payment ***prior to an official letter of invitation being extended to the visiting artist***, as there are some circumstances where MassArt is unable to pay an honorarium. Examples of foreign nationals not eligible for reimbursement are: diplomats, employees of foreign governments, military personnel, and those on foreign government representative visas. If an invitation letter is sent prior to IEC approval, ***neither the Foundation nor the College will be able to pay the visiting artist.***

Visitor Type	Reimbursement for Expenses?	Requirements for Reimbursement	Honorarium Payment?	Requirements for Honorarium
B-1 Visitor Visa for Business or WB Visitor Visa Waiver for Business	Yes	Valid visa and valid port-of-entry date stamp (or valid electronic I-94 arrival/departure record)	Yes	Same as reimbursement <i>plus</i> : <ul style="list-style-type: none"> Service less than 9 days Hasn’t received payment from more than 5 institutions in past 6 months
J-1 Scholar or Professor sponsored by another institution	Yes	Valid J-1 immigration documents and authorization from host institution	Yes	Valid J-1 immigration documents and authorization from host institution
B-2 Visitor Visa for pleasure or WT Visitor Visa Waiver for Tourism	No	N/A	No	Not eligible

While MassArt can provide assistance to our international visiting artists, it is the responsibility of the visitor to complete documentation provided by the International Education Center which allows us to determine their eligibility for payment, and their responsibility to ensure valid entry into the U.S. in order for our institution to process their payment. Learning and following those steps is the responsibility of the foreign national, not of MassArt. **The International Education Center needs at least 3 months' notice prior to the desired date of arrival of the visitor in order to review eligibility.**

Visitors from countries participating in the Visa Waiver Program do not need a visa to enter the United States. However, the restrictions on reimbursements and honoraria still apply, and all documentation must be provided. In addition, they must apply for approval through the Electronic System for Travel Authorization (ESTA): <https://esta.cbp.dhs.gov/esta>. Participating countries in the Visa Waiver Program (current as of March 2016; check with the IEC for current data) include the following countries:

Andorra	Hungary	New Zealand
Australia	Iceland	Norway
Austria	Ireland	Portugal
Belgium	Italy	San Marino
Brunei	Japan	Singapore
Chile	Republic of Korea	Slovakia
Czech Republic	Latvia	Slovenia
Denmark	Liechtenstein	Spain
Estonia	Lithuania	Sweden
Finland	Luxembourg	Switzerland
France	Malta	Taiwan
Germany	Monaco	United Kingdom
Greece	The Netherlands	

Payment and Taxation

Honoraria payments will be subject to tax withholdings unless the visitor can claim a tax treaty benefit. To claim the tax treaty benefit, the visitor must have a SSN or ITIN. Travel reimbursement is usually not subject to withholding because it is usually not considered income.

To take advantage of a tax treaty benefit or to be refunded the amount withheld, the foreign national must apply for a Social Security Number (SSN) or an Individual Taxpayer Identification Number (ITIN). No SSN or ITIN is required for reimbursement of expenses. MassArt can provide the visitor with the necessary instructions (included in this document) to apply for a SSN or ITIN, but **it is the responsibility of the foreign national to apply.**

Please note: Individuals must apply for these numbers in person, and there can be a significant delay (6-8 weeks) in receipt of the cards. However, once a SSN or ITIN is issued to an individual, it can be used for future situations where they receive payment in the United States. Visitors can apply for an ITIN by following these links:

<http://www.irs.gov/pub/irs-pdf/iw7.pdf> (instructions)

<http://www.irs.gov/pub/irs-pdf/fw7.pdf> (form)



Checklist 1
Procedures for Pre-Invitation and Invitation
ALL INTERNATIONAL VISITING ARTISTS

*These steps must be completed by the sponsoring MassArt department in conjunction with the International Education Center before an international visitor can be reimbursed or paid an honorarium. **The International Education Center (IEC) will determine the visitor’s eligibility for reimbursement of expenses and/or payment of an honorarium. Therefore, no official letter of engagement may be sent to proposed visitors until it has been determined that they are eligible for payment.***

Please do not hesitate to contact the International Education Center, international@massart.edu or 617.879.7716, if you have any questions completing these checklists.

Determining Eligibility

Complete?	Responsible	Task
	Department	Department receives written approval from the Trust Fund Custodian to invite the visitor. Approval of the Vice President is required for payments of \$5,000 or more.
	Department	Department asks the foreign national to complete the MassArt Declaration by International Visitors (attached) to determine their eligibility to receive payment from MassArt <i>at least 3 months prior to the projected date of arrival.</i>
	Visitor	Visitor completes the MassArt Declaration and returns it to the Department <i>at least 3 months prior to the projected date of arrival.</i>
	Visitor	Visitor also sends required documentation (photocopy of identity/signature page from passport, visa (if applicable), and visa stamp (if already in U.S.). *J-1 Scholars also need to provide written authorization from their host institution. Offer letter from MassArt (following template provided below) may be necessary to get this authorization. Final approval by IEC once <i>all</i> documents are provided is required.
	Department	Department submits above documentation (Declaration and additional required photocopies) to the International Education Center for review / approval of eligibility.
	IEC	International Education Center determines eligibility, and communicates this to the sponsoring Department in writing (as noted on the Declaration).

Extending Official Invitation

	Department	Once approved by the IEC, Department extends invitation to the visitor, using the template “MassArt Invitation for International Visitors” (attached).
	IEC	IEC must approve final draft of letter prior to sending to visitor.
	Department	Department submits a copy of the signed invitation letter to the IEC.



Checklist 2

B VISITORS FOR BUSINESS: Visa, Travel, and Payment Process

These steps must be completed in order for an international visitor to be reimbursed or paid an honorarium.

The below process happens *after* the International Education Center (IEC) has determined the visitor's eligibility (see Checklist 1).

Visa and Travel Process for Eligible B Visitors		
Complete?	Responsible	Task
	Department	Department confirms visitor has original MassArt Invitation for "B-1" International Visiting Artists (See page 8 below). This letter is required when applying for a B-1 visa.
	Visitor	If visitor does not have a SSN or ITIN, he or she may apply for an ITIN in person during his or her visit to the United States (optional). Link to form and instructions are above.
	Visitor	Visitor determines if he or she is eligible for/will claim a tax treaty benefit. If so, IRS Forms 8233 or W8-BEN must be completed by the individual. (Visitor must already possess an SSN or ITIN number.)
	Visitor	Visitors traveling from a country <u>not</u> in the Visa Waiver Program: <ul style="list-style-type: none"> ○ Visitor follows the visa application process, using letter of invitation provided by MassArt. ○ The visa is issued by the U.S. Department of State and affixed to the passport with B-1; or B-1/B-2 (combination of pleasure/business).
	Visitor	Visitors traveling from a country <u>in</u> the Visa Waiver Program. <ul style="list-style-type: none"> ○ Visitors from WVP countries must complete an online form through the Electronic System for Travel Authorization (ESTA) Program, prior to entry into the U.S: https://esta.cbp.dhs.gov/esta.
	Visitor	At port of entry to the U.S.: <ul style="list-style-type: none"> ○ Visitor presents passport with visa and letter of invitation to immigration authorities and requests a B-1 Visitor Visa for Business or WB Visitor Visa Waiver for Business stamp. ○ Immigration authorities collect documentation; U.S. immigration officials have the final decision on the entry of foreign nationals to the United States.
	Visitor	Upon arrival on MassArt campus: <ul style="list-style-type: none"> ○ Visitor brings passport with visa stamp to IEC for verification and photocopy.

Payment Process: Request for Payment of Honorarium: Eligible B Visa Holders		
Complete?	Responsible	Document/Task
	Department	Department completes the MassArt Request for Payment and Artist/Lecturer Invoice.
	Visitor	Visitor completes W8-BEN using home county tax ID number and/or (optional) provides SSN or ITIN.
	Department	Department submits all documents to IEC (and keeps a set).
	IEC	IEC attaches to packet and submits all documents to Accounting Services (and keeps a complete set): <ul style="list-style-type: none"> • Copy of letter of invitation. • Copy of completed and signed MassArt Declaration form. • Copy of visitor's passport identity page, visa (if applicable) and page with port of entry stamp.

Payment Process: Request for Reimbursement: Eligible B Visa Holders		
Complete?	Responsible	Document/Task
	Department	Department completes the MassArt Request for Payment and Artist/Lecturer Invoice.
	Visitor	Visitor provides original receipts.
	Department	Department provides expense report signed by foreign national.
	Department	Department submits all documents to IEC (and keeps a set).
	IEC	IEC attaches to packet and submits all documents to Accounting Services (and keeps a complete set): <ul style="list-style-type: none"> • Copy of letter of invitation. • Copy of completed/signed MassArt Declaration form and W8-BEN using home country tax ID. • Copy of visitor's passport identity page, visa (if applicable) and page with port of entry stamp.

With all above steps complete, Accounting Services is now able to process payment of honorarium or reimbursement.



Checklist 3 Host Institution Authorization and Payment Process J-1 SCHOLARS

These steps must be completed in order for an international visitor to be reimbursed or paid an honorarium.

The below process happens **after the International Education Center (IEC) has determined the visitor's eligibility (see Checklist 1).**

Host Institution Authorization Process for Eligible J-1 Scholars (Sponsored by Another U.S. Institution)		
Complete?	Responsible	Task
	Department	Department confirms visitor has original MassArt Invitation for J-1 International Visitors (See page 9 below).
	Visitor	Visitor receives written authorization from his/her sponsoring institution to speak at MassArt and present the documentation to MassArt (two letters: from host institution department and from Responsible Officer).
	Visitor	Visitor determines if he or she is eligible for a tax treaty benefit. If so, IRS Forms 8233 or W8-BEN must be completed.
	Visitor	If visitor does not have a SSN or ITIN, he or she may apply for an ITIN in person during his or her visit to the United States (optional). Link to form and instructions are above.

Payment Process: Request for Payment of Honorarium: Eligible J-1Scholars Sponsored by Another U.S. Institution		
Complete?	Responsible	Document/Task
	Department	Department completes the MassArt Request for Payment and Artist/Lecturer Invoice.
	Visitor	Visitor completes W8-BEN using home county tax ID number and/or (optional) provides SSN or ITIN.
	Department	Department submits all documents to IEC (and keeps a set).
	IEC	IEC attaches to packet and submits all documents to Accounting Services (and keep a complete set): <ul style="list-style-type: none"> Copy of letter of invitation. J-1 Scholar's DS-2019. Work authorization letters from J-1 scholar's host institution. Copy of completed and signed MassArt declaration form. Copy of visitor's passport identity page, visa (if applicable) and page with port of entry stamp.

Payment Process: Request for Reimbursement: Eligible J-1Scholars Sponsored by Another U.S. Institution		
Complete?	Responsible	Document/Task
	Department	Department completes the MassArt Request for Payment and Artist/Lecturer Invoice.
	Visitor	Visitor provides original receipts.
	Department	Department provides expense report signed by foreign national.
	Department	Department submits all documents to IEC (and keeps a set).
	IEC	IEC attaches to packet and submits all documents to Accounting Services (and keep a complete set): <ul style="list-style-type: none"> Copy of letter of invitation. J-1 Scholar's DS-2019. Work authorization letters from J-1 scholar's host institution. Copy of completed/signed MassArt declaration form and W8-BEN using home country tax ID. Copy of visitor's passport identity page, visa (if applicable) and page with port of entry stamp.

With all above steps complete, Accounting Services is now able to process payment of honorarium or reimbursement.



**MassArt Declaration by International Visiting Artists
To Determine Eligibility for Honorarium Payment or Reimbursement of Expenses**

TO BE COMPLETED BY INTERNATIONAL VISITING ARTIST

NAME AND CONTACT INFORMATION

Full Name (as it appears on your passport): _____
Family Name (Surname) Given Name (First) Middle Name (if any)
Permanent Mailing Address: _____
Email Address: _____ Phone Number: _____

SERVICE TO BE PERFORMED FOR MASSACHUSETTS COLLEGE OF ART AND DESIGN

Purpose of Work: _____
MassArt Department Sponsor: _____
Department Contact: _____ Contact's Email Address: _____
Dates of Service to MassArt: (Month/Day/Year) _____ to (Month/Day/Year) _____

CURRENT OR EXPECTED VISA STATUS: PLEASE CHECK THE APPROPRIATE BOX

B-1 Visitor /WB Visa Waiver for Business

If you checked the box above, you must provide a copy of the identity page of your passport, and I-94 form and valid visa stamp (if applicable). Please answer the following: Have you received honoraria or reimbursement of expenses from more than 5 U.S. institutions in the past 6 months?
 Yes No

B-2/WT Visa Waiver for Tourism

If you checked the box above, you must provide a copy of the identity page of your passport and valid visa stamp (if applicable). Please answer the following: Have you received honoraria or reimbursement of expenses from more than 5 U.S. institutions in the past 6 months? Yes No

J-1 Scholar or Professor

If you checked the box above, you must provide a copy of the identity page from your passport, your DS-2019 and your sponsoring institution's authorization letters (Academic Department and Responsible Officer).

Other Visa Type or Employment Eligibility

Please list Visa type and attach documentation: _____

Signature of International Visitor: _____ Date: _____

For MassArt International Education Center Use Only

MassArt may pay for the following: Reimbursement of Expenses Payment of Honorarium
 Visitor is not eligible. Reason: _____

Approved by: _____ Date: _____



MassArt Invitation for “B-1” International Visiting Artists

To: [Name as it appears on passport]
From: [Name of faculty sponsor and sponsoring department]
Re: Invitation as an International Visiting Artist at Massachusetts College of Art and Design
Date:

We are pleased to invite you to [describe event and MassArt department/Program] at the Massachusetts College of Art and Design. The dates of your visit to MassArt are _____ to _____. [Add any details about the event here.] You are invited to MassArt solely for the purpose of engaging in academic activity, based on your unique qualifications.

We would like to offer you an honorarium of _____. AND/OR We would [also] like to offer reimbursement of travel expenses including the following: [give specifics about what expenses will be covered, note any restrictions, and indicate which, if any, arrangements will be handled by your MassArt department].

To ensure we understand our mutual responsibilities regarding United States immigration regulations, I would like to outline them here.* Foreign nationals who are visiting the United States are required to have a visa; it is your responsibility to ensure you have the correct visa to serve in this capacity at MassArt. If you are required to obtain a visa to enter the United States, you should make application for a “Visitor for Business” (B-1) visa. If you are eligible to enter the United States under a visa waiver, you must enter in a “Waiver for Business” (WB) status. You must receive a stamp in your passport indicating your visa status. **This invitation letter can be used to support your need for business visa travel status in order to receive an honorarium.** Please keep this letter with you during your travel to the U.S.

Once at MassArt, you will need to complete some paperwork to receive your honorarium and/or reimbursement of expenses, and your passport identity page and visa/entry stamp will be photocopied by our staff. Please be aware that honorarium payments are subject to U.S. federal withholding tax of 30% plus Massachusetts withholding of 5%. Your payment may be exempt from this withholding if there is a tax treaty benefit between your country and the U.S. If you qualify, you will need a U.S. Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN) to receive this benefit. If you already have either of these numbers, please bring it with you. Otherwise, we will assist you in applying once on campus. Please be aware that you must apply in person, and there can be a significant delay in receiving this documentation (often 6-8 weeks).

If you have any questions about this invitation, please contact _____ at _____ or by email at _____. Thank you for agreeing to speak at MassArt. We are looking forward to your upcoming visit.

With best regards,

[Name, title, department]

* American Competitiveness and Workforce Improvement Act of 1998, Subtitle C – Miscellaneous Provision: Section 431: Academic Honoraria INA 212(q) “Any alien admitted under section 101(a)(15)(B) of this title may accept an honorarium payment and associated incidental expenses for a usual academic activity or activities (lasting not longer than 9 days at any single institution), as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by an institution or organization described in subsection (p)(1) of this section and is made for services conducted for the benefit of that institution or entity and if the alien has not accepted such payment or expenses from more than 5 institutions or organizations in the previous 6-month period.”

****Sections of this letter that do not concern immigration or payment can be modified at the discretion of the sponsoring department. It is recommended that any changes be discussed with the International Education Center to confirm that they do not affect the visa application of the international visitor.****



MassArt Invitation for J-1 International Visitors

To: [Name as it appears on passport]
From: [Name of faculty sponsor and sponsoring department]
Re: Invitation as a J-1 International Visiting Artist at Massachusetts College of Art and Design
Date:

We are pleased to invite you to [describe event and MassArt department/Program] at the Massachusetts College of Art and Design. The dates of your visit to MassArt are _____ to _____. [Add any details about the event here.] You are invited to MassArt solely for the purpose of engaging in academic activity.

We would like to offer you an honorarium of _____. AND/OR We would [also] like to offer reimbursement of travel expenses including the following: [give specifics about what expenses will be covered, note any restrictions, and indicate which, if any, arrangements will be handled by your MassArt department].

To ensure we understand our mutual responsibilities regarding United States immigration regulations, I would like to outline them here.* The U.S. government requires that you have written authorization from both the chair of your department and the Responsible Officer at your sponsoring institution. Please contact your department to obtain the written authorization. Your department chair should forward this authorization to the Responsible Officer for their review and authorization. You will need to provide a copy of both authorizations to MassArt in order to receive payment from MassArt.

In addition to the written authorization, once at MassArt, you will need to provide your passport so it can be copied. Please be aware that honorarium payments are subject to U.S. federal withholding tax of 30% plus Massachusetts withholding of 5%. Your payment may be exempt from this withholding if there is a tax treaty benefit between your country and the U.S. If you qualify, you will need a U.S. Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN) to receive this benefit. If you already have either of these numbers, please bring it with you. Otherwise, we will assist you in applying once on campus. Please be aware that you must apply in person, and there can be a significant delay in receiving this documentation (often 6-8 weeks).

If you have any questions about this invitation, please contact _____ at _____ or by email at _____.

Thank you for agreeing to speak at MassArt. We are looking forward to your upcoming visit.

With best regards,

[Name, title, department]

***According to the Code of Federal Regulations: \ 22cfr \ 22 CFR \ PART 62--EXCHANGE VISITOR PROGRAM \ § Sec. 62. 20 Professors and research scholars.**

(g) *Occasional lectures or consultations.* Professors and research scholars may participate in occasional lectures and short-term consultations, unless disallowed by the sponsor. Such lectures and consultations must be incidental to the exchange visitor's primary program activities. If wages or other remuneration are received by the exchange visitor for such activities, the exchange visitor must act as an independent contractor, as such term is defined in 8 CFR **274a.1(j)**,* and the following criteria and procedures shall be satisfied: (1) Criteria. The occasional lectures or short-term consultations shall: (i) Be directly related to the objectives of the exchange visitor's program;(ii) Be incidental to the exchange visitor's primary program activities; and (iii) Not delay the completion date of the visitor's program.

****Sections of this letter that do not concern immigration or payment can be modified at the discretion of the sponsoring department. It is recommended that any changes be discussed with the International Education Center to confirm that they do not affect the visa application of the international visitor.****

Legal Definitions: B VISITORS

INA 101(a)(15)(B)

(15) The term “immigrant” means every alien except an alien who is within one of the following classes of nonimmigrant aliens (B) an alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocation) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure;

INA 212(q)

q. Academic honoraria

Any alien admitted under section 101(a)(15)(B) of this title may accept an honorarium payment and associated incidental expenses for a usual academic activity or activities (lasting not longer than 9 days at any single institution), as defined by the Attorney General in consultation with the Secretary of Education, if such payment is offered by an institution or organization described in subsection (p)(1) of this section and is made for services conducted for the benefit of that institution or entity and if the alien has not accepted such payment or expenses from more than 5 institutions or organizations in the previous 6-month period

Subsection (p)(1) reference describes the organizations as

"(A) an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965), or a related or affiliated nonprofit entity; or

(B) A nonprofit research organization or a Governmental research organization,"

The Massachusetts College of Art and Design is subject to subsection (p)(1).

Legal Definitions: J VISITORS

Code of Federal Regulations:

\ 22cfr \ 22 CFR \ PART 62--EXCHANGE VISITOR PROGRAM \ § Sec. 62. 20 Professors and research scholars.

(g) *Occasional lectures or consultations* . Professors and research scholars may participate in occasional lectures and short-term consultations, unless disallowed by the sponsor. Such lectures and consultations must be incidental to the exchange visitor's primary program activities. If wages or other remuneration are received by the exchange visitor for such activities, the exchange visitor must act as an independent contractor, as such term is defined in 8 CFR 274a.1(j),* and the following criteria and procedures shall be satisfied:

(1) Criteria. The occasional lectures or short-term consultations shall:

- (i) Be directly related to the objectives of the exchange visitor's program;
- (ii) Be incidental to the exchange visitor's primary program activities; and
- (iii) Not delay the completion date of the visitor's program.

(2) Procedures.

(i) To obtain authorization to engage in occasional lectures or short-term consultations involving wages or other remuneration, the exchange visitor shall present to the responsible officer:

- (A) A letter from the offeror setting forth the terms and conditions of the offer to lecture or consult, including the duration, number of hours, field or subject, amount of compensation, and description of such activity; and
 - (B) A letter from his or her department head or supervisor recommending such activity and explaining how it would enhance the exchange visitor's program.
- (ii) The responsible officer shall review the letters required in Sec. 62.20(g)(2)(i) above and make a written determination whether such activity is warranted and satisfies the criteria set forth in Sec. 62.20(g)(1).

*8 CFR 274a.1(j): The term independent contractor includes individuals or entities who carry on independent business, contract to do a piece of work according to their own means and methods, and are subject to control only as to results. Whether an individual or entity is an independent contractor, regardless of what the individual or entity calls itself, will be determined on a case-by-case basis. Factors to be considered in that determination include, but are not limited to, whether the individual or entity: supplies the tools or materials; makes services available to the general public; works for a number of clients at the same time; has an opportunity for profit or loss as a result of labor or services provided; invests in the facilities for work; directs the order or sequence in which the work is to be done and determines the hours during which the work is to be done. The use of labor or services of an independent contractor are subject to the restrictions in section 274A(a)(4) of the Act and Sec. 274a.5 of this part;...